

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Capital Improvement
AGENDA DATE: November 9, 2021
CONTACT PERSON/PHONE: Sam Rodriguez, P.E., City Engineer, (915) 212-1845
DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: 7 Enhance and sustain El Paso's infrastructure network
SUBGOAL: 7.2 Improve competitiveness through infrastructure improvements impacting the quality of life

SUBJECT:

That the City Manager, or designee, be authorized to sign an Agreement for Professional Services by and between the CITY OF EL PASO and TRANSMAP CORPORATION, an Ohio professional limited liability company, for a project known as "PAVEMENT CONDITIONS INDEX ASSESSMENT" for an amount not to exceed SIX HUNDRED FIFTY TWO THOUSAND EIGHT HUNDRED NINETY FIVE AND 93/100 DOLLARS (\$652,895.93) and that the City Manager, or designee, be authorized to establish the funding sources, make any necessary budget transfers, execute any and all documents necessary for the execution of the Agreement, and to execute any contract amendments that do not impact the funding amount.

BACKGROUND / DISCUSSION:

The City completed its last PCI study in 2018. It is best practice to perform these studies every three years. Data generated from this study will provide information on the condition of City streets to prioritize where maintenance including surface treatments, resurfacing, and/or reconstruction may be necessary.

PRIOR COUNCIL ACTION:

On August 24, 2021 Council approved the FY 22 Budget. Funding for the assessment was included in the budget.

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? x YES NO

PRIMARY DEPARTMENT: Streets and Maintenance
SECONDARY DEPARTMENT: Capital Improvement Department

AMOUNT AND SOURCE OF FUNDING:

FY 22 Budget

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Jerry DeMuro/for

Sam Rodriguez, P.E., City Engineer

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager, or designee, be authorized to sign an Agreement for Professional Services by and between the CITY OF EL PASO and **TRANSMAP CORPORATION, an Ohio professional limited liability company**, for a project known as **“PAVEMENT CONDITIONS INDEX ASSESSMENT”** for an amount not to exceed **\$652,895.93** and that the City Manager, or designee, be authorized to establish the funding sources, make any necessary budget transfers, execute any and all documents necessary for the execution of the Agreement, and to execute any contract amendments that do not impact the funding amount.

APPROVED THIS _____ DAY OF _____ 2021.


CITY OF EL PASO:

Oscar Leeser, Mayor

ATTEST:

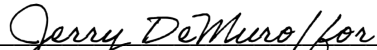
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Omar De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Rodriguez, P.E., City Engineer
Capital Improvement Department

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

**AN AGREEMENT FOR
PROFESSIONAL SERVICES**

This Agreement is made this _____ day of _____, 2021 by and between the **CITY OF EL PASO**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the “**Owner**”, and **TRANSMAP Corporation, an Ohio professional limited liability company**, hereinafter referred to as the “**Consultant**”.

WHEREAS, the Owner intends to engage the Consultant to perform professional services for the project known as “**PAVEMENT CONDITIONS INDEX ASSESSMENT**”, hereinafter referred to as the “**Project**”, as further described in **Attachment “A” and**

WHEREAS, the Project, as originally intended by the Owner also included the services listed in **Attachment “B”**; and

WHEREAS, because of budget restraints, the Owner, as of the date of this Agreement, can only fund the part of the Project that is listed in **Attachment “A”**; and

WHEREAS, if funding becomes available, the Owner may request the Consultant to perform the services listed in **Attachment “B”**; and

WHEREAS, Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through the Owner’s selection procedure, in accordance with all applicable state and local laws and ordinances;

NOW, THEREFORE, for the consideration set forth in this Agreement and its attachments, the Owner and Consultant agree as follows:

**ARTICLE I.
ATTACHMENTS**

1.1 The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment “A”	Scope of Services and Fees
Attachment “B”	Additional Scope of Services
Attachment “C”	Intentionally Deleted
Attachment “D”	Invoice Requirements
Attachment “E”	Insurance Certificate

**ARTICLE II.
PROJECT**

2.1 The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform the services identified in this Agreement for the Project. The Project shall consist of the Consultant’s

completion of the Scope of Services as further described in **Attachment “A”**. Such Scope of Services shall be completed in accordance with the identified phases described in **Attachment “A”**.

2.2 The Consultant shall comply with the City of El Paso Capital Improvement Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under this Agreement. Such Guidelines are available in the Capital Improvement Department.

2.3 The Consultant shall serve as the Owner’s professional representative for the Project to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services.

2.4 The Owner shall provide all available information to the Consultant, as to the Owner’s requirements for the Project. The Owner shall also provide to the Consultant, all known information pertinent to the Project site, including previous reports and other data relative to design, such as “as-built” drawings or physical conditions now existing at the Project site, if available. In performing its services, the Consultant will be entitled to rely upon the accuracy of the Owner provided information.

2.5 The Owner hereby designates the City Engineer of the City of El Paso as the Owner’s representative with respect to the professional services to be provided by the Consultant pursuant to this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define Owner’s policies, and decisions with respect to materials, equipment, elements, and systems pertinent to the work covered by this Agreement. City Engineer will render written decisions within a five (5) working day time period.

ARTICLE III. CONSULTANT FEES AND PROJECT BUDGET

3.1 PAYMENT TO CONSULTANT. The Owner shall pay to the Consultant an amount not to exceed **SIX HUNDRED FIFTY-TWO THOUSAND EIGHT HUNDRED NINETY-FIVE AND 93/100 (\$652,895.93)** for the services listed in Attachment “A”. The Consultant will perform the Services listed in Attachment “A” as provided in this Agreement.

The parties agree and understand that all fees and compensation to the Consultant shall only become due and payable in accordance with the terms of this Agreement and the fees to be charged for the Project shall be pursuant to the Consultant’s fee proposal at the rates which are attached hereto as **Attachment “A”**.

Before the expiration of this Agreement, the City Council may, by City Council resolution, approve funding for the Additional Scope of Services attached to this Agreement as **Attachment “B”**. Following any City Council resolution, the City Engineer will provide the Consultant with a written notice to proceed allowing the Consultant to perform the services listed in **Attachment “B”**. If issued a notice to proceed as provided above, then the Consultant will perform the services listed in **Attachment “B”** at the rates listed in **Attachment “B”**. All services under **Attachment “B”**, if authorized as provided herein, will be paid in accordance to the terms of this Agreement. The

parties agree that no work under **Attachment “B”** is authorized and thus should not be performed or paid for unless City Council approves by resolution the authorization for the Additional Scope of Services in **Attachment “B”** to this Agreement.

3.2 INTENTIONALLY DELETED.

3.3 CONSULTANT’S INVOICES. The Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to **Attachment “D”**. Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing. Within ninety days (90) of substantial completion of construction, all outstanding invoices for all work completed to date by the Consultant shall be submitted to the Owner.

3.3.1 Each invoice shall contain a brief summary indicating, at a minimum, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date. In addition to the Summary, each invoice shall provide a Progress Report. The Progress Report shall describe, at a minimum, the progress of the Project to date also indicating the percentage of completion of the Project. The established schedule for completion shall not be revised except by written amendment to this Agreement, executed by both parties.

3.3.2 The Owner agrees to pay invoices for all services performed as soon as reasonably possible but not later than thirty (30) days from receipt. Upon dispute, however, the Owner may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to Consultant shall not exceed Consultant’s fee proposal, except by written amendment to this Agreement, executed by both parties.

3.4 INTENTIONALLY DELETED..

3.5 COSTS NOT ENUMERATED. Except as specifically set forth in this Agreement and its attachments, all costs related to the completion of the services requested herein shall be borne by the Consultant and not passed on to the Owner or otherwise paid by the Owner, unless a written amendment to this Agreement is executed by both parties allowing for additional costs.

ARTICLE IV. PERIOD OF SERVICE AND TERMINATION

4.1 TERM AND PERIOD OF SERVICE. The services called for by each phase shall begin upon the issuance of a Notice to Proceed from the City Engineer. The Consultant shall complete the requested services in accordance with the timelines and schedules outlined in **Attachment “A”**. Unless terminated earlier as allowed under this Agreement, this Agreement will remain in effect until 180 calendar days have lapsed after the completion of the Services listed in **Attachment “A”**. If a notice to proceed with the Services in **Attachment “B”** has been issued by the City Engineer pursuant to this Agreement, then this Agreement will expire at the completion of the services listed in **Attachment “B”**.

Any provisions that are meant to survive the term of this Agreement, such as, but not limited to, indemnification, audit, warranties, and copyrights, will remain in effect following the expiration of the term of this Agreement.

4.2 SUSPENSION. Barring an early termination as provided herein, this Agreement shall remain in force: a) For a period which may reasonably be required for the design, award of construction contracts, and construction of the improvements included in all construction contracts, including extra work and required extensions thereto; or b) Unless construction has not begun within a period of **twelve (12) months** after the completion of the services called for in that phase of work last authorized. However, should the Consultant's services be suspended for a period longer than six months, the City and Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period. The Owner may determine that this Agreement will remain in full force past the twelve-month period noted above. Such a determination will be based upon the individual circumstances of this Project and this Agreement.

4.3 TERMINATION. This Agreement may be terminated as provided herein.

4.3.1 TERMINATION BY OWNER. It is mutually understood and agreed by the Consultant and Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days'** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the Owner's notice of termination. Owner shall compensate Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.

4.3.2 TERMINATION BY EITHER PARTY. It is further understood and agreed by the Consultant and Owner that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of **seven (7) consecutive calendar days** to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the Owner retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the Owner pursuant to this subsection, the Owner may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined.

4.3.3 TERMINATION FOR FAILURE TO COMPLY WITH SUBCHAPTER J, CHAPTER 552, GOVERNMENT CODE. The requirements of subchapter J, Chapter

552, Government Code, may apply to this Contract and the Contractor or vendor agrees that the Contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

4.3.4 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE. Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

ARTICLE V. INSURANCE AND INDEMNIFICATION

5.1 INSURANCE. The Consultant shall procure and maintain insurance coverage as required herein and attached in **Attachment “E”**. Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the Owner. The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.

5.1.1 WORKERS’ COMPENSATION INSURANCE. The Consultant shall procure and shall maintain during the life of this Agreement, Workers’ Compensation Insurance as required by applicable Texas law for all of the Consultant’s employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

“The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured.”

5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE. The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant’s employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

- a) **Commercial General Liability**
\$1,000,000.00 Per Occurrence
\$1,000,000.00 Products/Completed Operations
\$1,000,000.00 Personal and Advertising Injury

- b) **AUTOMOBILE LIABILITY**
Combined Single Limit

\$1,000,000.00 per accident

5.1.3 PROFESSIONAL LIABILITY INSURANCE. The Consultant shall procure and shall maintain, at the Consultant's sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement with a limit of \$1,000,000 on a claims made basis.

5.1.4 OWNER AS ADDITIONAL INSURED. The Owner shall be named as an Additional Insured on all of the Consultant's Insurance Policies, with the exception of Workers' Compensation and Professional Liability Insurance required by this Agreement.

5.1.5 PROOF OF INSURANCE. The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this Agreement.

5.1.6 GENERAL INSURANCE PROVISIONS. All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment "E"**. All certificates shall also include the name of the project on the corresponding insurance certificate.

5.2 INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, CONSULTANT SHALL INDEMNIFY HOLD HARMLESS, AND DEFEND OWNER, AND OWNER'S OFFICERS, DIRECTORS, PARTNERS, AGENTS CONSULTANTS, AND EMPLOYEES FROM AND AGAINST ANY CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS, AND ALL COURT, ARBITRATION, OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO THE PROJECT, PROVIDED THAT ANY SUCH CLAIM, COST, LOSS, OR DAMAGE IS ATTRIBUTABLE TO ANY NEGLIGENT ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT OR CONSULTANT'S OFFICERS, DIRECTORS, PARTNERS, AGENTS, CONSULTANTS OR EMPLOYEES. THE CONSULTANT SHALL NOT BE RESPONSIBLE FOR ANY ACTS OF ANY OF THE CITY'S INDEPENDENT PROJECT MANAGERS.

To the extent allowed by state law, the Owner will be responsible for its own actions.

ARTICLE VI. FEDERAL AND STATE PROVISIONS

6.1 COMPLIANCE WITH APPLICABLE LAWS – FEDERAL AND STATE FUNDING REQUIREMENTS. Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with

applicable laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the Owner or Consultant with respect to the use of federal and state funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal and state funds.

Specifically, and not in limitation of the foregoing, Consultant agrees that to the extent required by any agreement between the Owner and any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project, **including but not limited to:**

--The Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Owner, or supported by FTA through a Loan, Loan Guarantee, or Line of Credit with the Owner.

--The Department of Housing and Urban Development through a Grant Agreement or Cooperative Agreement with the Owner.

--The Federal Aviation Administration (FAA) through a Grant Agreement or Cooperative Agreement with the Owner, as further described in Attachment "F".

--The Texas Department of Transportation through an Agreement with the Owner.

Copies of grant assurances will be made available to Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project.

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

6.1.2 DBE GOOD FAITH EFFORTS. The requirements of 49 CFR Part 26, regulations of the U.S. DOT, applies to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of performance of this contract. All firms qualifying under this solicitation are encouraged to submit proposals. Award of this contract will be conditioned upon satisfying the requirements of this proposal. These requirements apply to all offerors, including those who qualify as a DBE. A DBE contract goal will be identified pursuant to the federal funding requirements for an individual task order established for this contract. The offeror

shall make good faith efforts, as defined in Appendix A, 40 CFR Part 26, to meet the contract goal for DBE participation in the performance of this Agreement.

The Consultant will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the offeror's commitment to use a DBE subconsultant whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. The offeror shall submit the information with its proposal as a condition of responsiveness.

DBE participation in this contract may be in the form of a prime contract, subcontract, joint venture, or other arrangement that qualifies under 49 CFR Section 26.55 or 26.53(g), both of which will be submitted on a Letter of Intent to the Owner.

6.2 TERMINATION FOR CANCELLATION OF GRANT. Should this Agreement be terminated as a result of cancellation of federal funds covering this Project, the Owner shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to such date, upon furnishing the Owner a progress report and an invoice to such date, and upon acceptance of the work by the Owner.

6.3 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT.252, 42 U.S.C. 2000D TO 2000D-4 AND TITLE 49, CODE OF FEDERAL REGULATIONS, DEPARTMENT OF TRANSPORTATION.

During the performance of this contract, Consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "Consultant") agrees as follows:

- (1) **Compliance with Regulations:** Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. ADP shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be

notified by Consultant of Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

- (4) **Information and Reports:** Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by Client to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information Consultant shall so certify to Client, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, the Client shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:
 - a. Withholding of payments to the Consultant under the contract until the Consultant complies, and / or
 - b. Cancellation, termination or suspension of the contract in whole or in part.
- (6) **Incorporation of Provisions:** Consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directive issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Client may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request Client to enter into such litigation to protect the interests of Client and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE VII. GENERAL PROVISIONS

7.1 CONTRACT TIME. Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within **Attachment "A"**. It is acknowledged that the Consultant does not have control over all aspects of the design and construction process and cannot warrant that it will complete all services and deliverables by a certain date. The Consultant shall timely notify the City Engineer of any delay beyond its control and the City Engineer shall extend the time schedule in the event of delays which the City Engineer reasonably determines are beyond the control of the Consultant.

7.2 INTENTIONALLY DELETED

7.3 CONSULTANT'S QUALITY OF WORK. The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional

service. The Consultant's services shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect and the orderly progress of the Project and in accordance with the time periods established in **Attachment "A"** and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner.

7.4 COPYRIGHT AND REPRODUCTION RIGHTS. Upon payment of amounts due, the Drawings, Specifications, concepts and design, and other documents prepared by the Consultant for this Project including, without limitation, those in electronic form (sometimes referred to as the "Instruments of Service") are the property of the Owner, who shall be vested with all common law and statutory rights. The Owner shall have the right to the use of the Drawings, Specifications and other documents for the maintenance, repair, remodeling and renovation of the Project; provided however the Consultant shall have no liability for any use of one or more of the Instruments of Service by the Owner for maintenance, repair, remodeling and renovation of the project. The Owner has the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the Drawings, Specifications, concepts and design, and other documents. The rights granted to the Owner herein for the use of the Drawings, Specifications and other documents for additional projects, other than the construction of the Project, shall not grant the Owner any right to rely upon the Consultant's seal on the Drawings and Specifications or to hold the Consultant responsible for any subsequent use of the Drawings, Specifications and documents. The Consultant shall provide the Owner with copies of the Instruments of Service in both electronic form and in hard copy.

7.5 AUDITING RECORDS FOR THE SPECIFIC PROJECT. Consultant's records subject to audit shall include but not be limited to records which, have a bearing on matters of interest to the Owner in connection with the Consultant's work on this Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant's records have been generated from computerized data, Consultant agrees to provide Owner's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require

Attn: Howard Luxhoj
5030 Transamerica Dr.
Columbus, Ohio 43328

Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

7.13 CONFLICTING PROVISIONS. Any provision contained in any Attachments to this Agreement, which may be in conflict or inconsistent with any of the provisions in this Agreement shall be void to the extent of such conflict or inconsistency.

7.14 ENTIRE AGREEMENT. This Agreement, including attachments, constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement shall not be amended or modified, except by written amendment, executed by both parties.

7.15 TEXAS GOVERNMENT CODE. In accordance to Chapter 2274 of the Texas Government Code, as amended from time to time, the Consultant represents and warrants to the Owner the following: (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Consultant will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.


WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

(Signatures begin on following page)

CITY OF EL PASO:

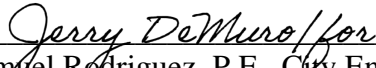
Tomás González
City Manager

APPROVED AS TO FORM:



Omar De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Rodríguez, P.E., City Engineer
Capital Improvement Department

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on this ____ day of _____, 2021,
by **Tomás González**, as **City Manager** of the **City of El Paso, Texas**.

Notary Public, State of Texas

My commission expires:

**CONSULTANT:
TRANSMAP CORPORATION**

By: _____
Name: Howard Luxhoj
Title: President and CEO

ACKNOWLEDGEMENT

THE STATE OF OH §
 §
COUNTY OF Franklin §

This instrument was acknowledged before me on this 27th day of October, 2021,
by Howard Luxhoj, on behalf of Consultant.

Notary Public, State of ~~Texas~~ Ohio

My commission expires:

10-17-26



Jared O'Brien
Notary Public, State of Ohio
Commission #: 2021-RE-838867
My Commission Expires 10-17-26

ATTACHMENT "A"
SCOPE OF SERVICES AND FEES

Attachment A Scope of Work (Funded)

Transmap Corporation

October 7, 2021

City of El Paso, TX

Pavement Condition Index Assessment Pricing

Pavement Analysis

Task	Description	Comments	Units	Price	Total
1.0	Field Data Collection (units = centerline miles)	Transmap will utilize our Crack Map 3D technology (LCMS) for pavement collection - 100% coverage - 360-degree image view of all roadways (ROW) with our panoramic Ultra HD solution - Ground-based LiDAR	2,307	\$108.99	\$251,439.93
1.1	Advanced Inspections - 100% Analysis of All Through Lanes (units = lump sum)	Transmap will process all the data collected in the field. Delivery of Crack Map Orthophotography (MrSID of cracks on an image), Crack Intelligence data (Rankings of all the cracks, hot spot analysis), Image delivery, Ride Quality failed locations, Utility Adjustments Needed	1	\$29,240.00	\$29,240.00
1.2	City-Wide Post Processed LiDAR (units = lump sum)	Transmap will process all the collected LiDAR data into LAS files that can be brought into AutoCAD or ArcGIS as point cloud data (access to web LiDAR)	1	\$24,999.00	\$24,999.00
1.3	Network Setup and Review (units = hours)	Transmap will use the Agency's centerline file and create the necessary fields, ID's and formatting to produce a pavement centerline	28	\$109.00	\$3,052.00
1.4	ASTM D6433 Network Level Formatting - (units = sections)	ASTM D6433 distress standards	25,150	\$7.04	\$177,056.00
1.5	PAVER 7.x PCI Load (units = lump sum)	Formatting distress data and centerline file for mass load to produce official PCI results	1	\$2,723.00	\$2,723.00
1.6	Walk-Out (units = days)	Transmap will perform 4 pavement walk-outs - We will walk-out 2 districts at a time - Transmap will have one iPad and will supply the Agency with another iPad	4	\$1,999.00	\$7,996.00
1.7	GIS Integration - (units = hours)	Transmap will link all PCI data to the Agency's centerline file	56	\$109.00	\$6,104.00
1.8	Pavement Management Practice Definition "Boot Camp" (price is lump sum)	Transmap will meet with the agency to review maintenance/rehabilitation activities, analysis procedures, and collect any existing information on roadways (ADT data, construct dates, maintenance dates, etc.) This process will setup the reporting task	1	\$4,235.00	\$4,235.00
1.9	Reporting (units = hours)	Transmap will put together written/tabular and GIS map data to support a 5-year work plan - Candidate list for all roads and ranking for all segments	54	\$137.00	\$7,398.00
1.10	On-Site Pavement Management Training (units = days)	Transmap will provide PAVER I Training - This is a 2-day class that goes over every phase of PAVER work flow - We will also go through the pavement management process	2	\$3,872.00	\$7,744.00
1.11	True Area Calculation (units = hours)	Transmap will update PAVER and the Agency's GIS file to represent the True Area of pavement - True area will be an accurate width of pavement not just an average with from samples - This will assist the Paving Manager with actual widths to establish cost to replace pavement	410	\$109.00	\$44,690.00
1.12	Transmap Project Management (units = hours)	Standard project management includes staff allocation, phone calls, overall project coordination and updates	791	\$109.00	\$86,219.00

Subtotal

\$652,895.93

Hourly Rates		
Field Technician	per hour	\$61.00
GIS Technician	per hour	\$81.00
Pavement Technician	per hour	\$81.00
GIS Analyst	per hour	\$109.00
Project Manager	per hour	\$109.00
Senior Project Manager	per hour	\$137.00
Project Principle PE	per hour	\$160.00

Consultant will complete all items listed in this Attachment "A" within 150 calendar days from the date of the notice to proceed.

ATTACHMENT "B"
Additional Scope of Work

ATTACHMENT "B"

Additional Scope of Work Pending Funding

Availability

PAVER Assets

Task	Description	Comments	Units	Price	Total
9.0	PAVER Attributes-Paint Markings (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline), type, Good Poor condition, color - Accurate square foot of paint so Paving Manager can contract to replace all markings - Delivery of shapefile	2,307	\$42.50	\$98,047.50
9.1	PAVER Attributes - Curb&Gutter/Shoulders/Medians (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline), Curb Type, Landscaped, Hardscaped, Non Landscaped - Delivery of shapefile	2,307	\$39.50	\$91,126.50
9.2	PAVER Attributes - Sidewalks/ADA Ramps (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline), type (concrete, paver, etc.), Failure locations, truncated dome, color) - Delivery of shapefile	2,307	\$52.50	\$121,117.50
9.3	PAVER Attribute - Lane Configuration (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline), number of lanes right/left - Delivery of shapefile	2,307	\$35.50	\$81,898.50

Transmap will apply a 10% discount if these assets are approved within 6 months from the Pavement Purchase Order

Services in this Attachment "B" should only be completed if authorized as provided in the Agreement.

Additional Scope of Work Pending Funding Availability (Cont'd)

Traffic Asset Task List

Task	Description	Comments	Units	Price	Total
2.0	Signs/Signals/Intersection Control (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline), MUTCD code, daytime condition, post type, Number of heads, Pole Type, Detector Loop, Camera, Radar	2,307	\$86.50	\$199,555.50
2.1	GIS Integration (units = hours)	Transmap will link all collected assets to the centerline unique ID and road name.	21	\$109.00	\$2,289.00
2.2	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	222	\$109.00	\$24,198.00
<i>Subtotal</i>					\$226,042.50

Additional Scope of Work Pending Funding Availability Cont'd)

Utility Asset Task List

Task	Description	Comments	Units	Price	Total
3.0	Drainage Inlets (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline), Type	2,307	\$24.50	\$56,521.50
3.1	GIS Integration (units = hours)	Transmap will link all collected assets to the centerline unique ID and road name.	12	\$109.00	\$1,308.00
3.2	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	64	\$109.00	\$6,976.00

Subtotal **\$64,805.50**

Task	Description	Comments	Units	Price	Total
4.0	Manhole (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline)	2,307	\$12.50	\$28,837.50
4.1	GIS Integration (units = hours)	Transmap will link all collected assets to the centerline unique ID and road name.	12	\$109.00	\$1,308.00
4.2	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	33	\$109.00	\$3,597.00

Subtotal **\$33,742.50**

Task	Description	Comments	Units	Price	Total
5.0	Fire Hydrants (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline), color	2,307	\$10.25	\$23,646.75
5.1	GIS Integration (units = hours)	Transmap will link all collected assets to the centerline unique ID and road name.	12	\$109.00	\$1,308.00
5.2	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	27	\$109.00	\$2,943.00

Subtotal **\$27,897.75**

Task	Description	Comments	Units	Price	Total
6.0	Water Valves (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline)	2,307	\$12.50	\$28,837.50
6.1	GIS Integration (units = hours)	Transmap will link all collected assets to the centerline unique ID and road name.	12	\$109.00	\$1,308.00
6.2	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	33	\$109.00	\$3,597.00

Subtotal **\$33,742.50**

Task	Description	Comments	Units	Price	Total
7.1	Roadway / Pedestrian Illumination (Street Lights) (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline), Head type	2,307	\$64.50	\$148,801.50
7.2	GIS Integration (units = hours)	Transmap will link all collected assets to the centerline unique ID and road name.	12	\$109.00	\$1,308.00
7.3	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	165	\$109.00	\$17,985.00

Subtotal **\$168,094.50**

Additional Scope of Work Pending Funding Availability (Cont'd)

Bridges

Task	Description	Comments	Units	Price	Total
8.0	Bridges (units = centerline miles)	Standard attributes include; street name, unique ID, unique ID (street centerline), Start/Stop	2,307	\$10.50	\$24,223.50
8.1	GIS Integration (units = hours)	Transmap will link all collected assets to the centerline unique ID and road name.	12	\$109.00	\$1,308.00
8.2	Project Management (units = hours)	Standard project management includes managing the personnel assigned to the project, monthly project updates, and phone support throughout project.	28	\$109.00	\$3,052.00
<i>Subtotal</i>					\$28,583.50

Completion timelines for items on this Attachment "B" will be as set in the notice to proceed from City Engineer following City Council approval.

ATTACHMENT "C"
INTENTIONALLY DELETED

ATTACHMENT "D" **INVOICE REQUIREMENTS**

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant's proposal found in **Attachment "A"**. The time shown in **Attachment "A"** is an estimate. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and accompanying Summary and Progress Report and the Owner's written approval.

The invoice must clearly identify each employee name, title, hours worked, date of performance, task or project description, rate per hours and/or cost, and office/company location.

Reimbursable Costs: Efforts must be made to secure a *reasonable* and/or lowest rate available in the marketplace.

Receipts: Legible itemized receipts are required for the following: 1. Meals 2. Hotel (lodging) costs. 3. Airfare travel costs. 4. Parking costs. 5. Automobile or Equipment Rental costs. 6. Taxi, Limousine, Bus, Subway, or other travel costs. 7. Reproduction. 8. Shipping and Handling. 9. Local Postage/Deliveries (courier services). 10. Communication Costs. *Tips and alcohol are not reimbursable.*

No single invoice may include items for both August and September of any given year. The Owner's fiscal year begins on September 1st of each year and ends on August 31st of each year. The Consultant's invoices must be separated into items that end August 31st and those that begin on Septembers 1st of any given year, to coincide with the Owner's fiscal year.

Communications Costs: Long Distance telephone calls need to be identified and strictly related to work performed under this Agreement in order to be reimbursable by the Owner. A log is preferred showing the date, person's name called, and explanation. Cell phone monthly charges are reimbursable if usage is strictly related to work performed under this Agreement. Legible itemized cell phone records are required.

Personal Automobile Mileage: Expense report must clearly identify the departure/arrival time, To/From destinations and purpose of trip.

Entertainment Costs: Entertainment costs are not reimbursable, including: 1. Movie costs for "Pay for View" or Cable service. 2. Alcohol costs. 3. Monetary Tips (tipping) for any and all services related to all forms of travel (and/or entertainment).

ATTACHMENT "E"
INSURANCE CERTIFICATE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/27/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Andres O'Neil & Lowe Insurance Agency 227 North Lynn Street Bryan, OH 43506	CONTACT NAME:	
	PHONE (A/C, No, Ext): (800) 636-0983	FAX (A/C, No): (419) 636-0132
	E-MAIL ADDRESS: agency@andresoneilandlowe.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Cincinnati Insurance Company	10677
INSURED TRANSMAP Corporation Transmap Engineering LLC 5030 Transamerica Drive Columbus, OH 43228	INSURER B : Landmark American Insurance Company	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	ENP 0008067	2/3/2019	2/3/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	ENP 0008067	2/3/2019	2/3/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			ENP 0008067	2/3/2019	2/3/2022	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A	EWC 0359509	10/12/2021	10/12/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
B	<input type="checkbox"/> Professional Liab.			LHR785127	10/31/2021	10/31/2022	\$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The General Liability and Auto Liability policies include a blanket automatic additional insured endorsement which provides additional insured status for the certificate holder, per form GA233. Waiver of subrogation also applies in reference to the General Liability and Auto Liability. 30-day notice of cancellation also applies.

CERTIFICATE HOLDER

CANCELLATION

City of El Paso 218 N Campbell St. El Paso, TX 79901	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE