

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

**AGENDA DATE:** March 12, 2024  
**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME  
AND PHONE NUMBER:** Joaquin Rodriguez, (915) 212-0065

**DISTRICT(S) AFFECTED:** District 5

**STRATEGIC GOAL:** No.7: Enhance and Sustain El Paso's Infrastructure Network

**SUBGOAL:** N/A

**SUBJECT:**

Discussion and action on resolution authorizing the Mayor to enter in to an Interlocal agreement with the Camino Real Regional Mobility Authority (CRRMA) to provide right-of-way acquisition services for the Montwood Dr extension project.

**BACKGROUND / DISCUSSION:**

The extension of Montwood Dr. from Shreya to Rich Beem in El Paso's east side planning area was approved by voters in the 2022 Community Progress Bond Election. Design of the project is being managed by El Paso County, The City will be responsible for construction. The proposed alignment traverses privately owned parcels which will need to be acquired to accommodate the extension. This interlocal agreement authorizes the CRRMA to perform right of way acquisition services on behalf of the city and initiate the annexation process for the right of way.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

\$ 475,655.86 Community Progress Bond

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?** ☒ YES ☐ NO

**PRIMARY DEPARTMENT:** Capital Improvement Department

**SECONDARY DEPARTMENT:**

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

## RESOLUTION

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

That the Mayor is authorized to sign an Interlocal Agreement between the City of El Paso ("City"), a home rule municipal corporation, and the Camino Real Regional Mobility Authority ("Authority"), for the Authority, on behalf of the City, to acquire eighteen parcels necessary to extend Montwood Drive between Shreya Street and Rich Beem Boulevard; and to complete the documentation necessary to annex the property into the City. In exchange for such services, the City shall pay the Authority \$475,655.86, which does not include the purchase price of the properties.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.


#### CITY OF EL PASO:

#### ATTEST:

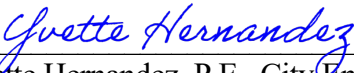
\_\_\_\_\_  
Oscar Leaser  
Mayor

\_\_\_\_\_  
Laura D. Prine  
City Clerk

#### APPROVED AS TO FORM:

  
\_\_\_\_\_  
Roberta Brito  
Assistant City Attorney

#### APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Yvette Hernandez, P.E., City Engineer  
Capital Improvement Department

EL PASO COUNTY        }  
                                 }  
STATE OF TEXAS        }

**INTERLOCAL AGREEMENT  
Montwood Drive Extension Project**

**THIS INTERLOCAL AGREEMENT** (“Agreement”) is made by and between the CITY OF EL PASO, TEXAS (City) and the CAMINO REAL REGIONAL MOBILITY AUTHORITY (“Authority”), (collectively, the “Parties”), for the purposes described herein.

**RECITALS**

**WHEREAS**, the City of El Paso is a Home Rule city operating pursuant to the laws of the State of Texas; and

**WHEREAS**, the Authority is a regional mobility authority created and operating pursuant to Chapter 370 of the Texas Transportation Code (the “RMA Act”) and 43 TEX. ADMIN. CODE §§26.1 *et seq.* and is a body politic and corporate and political subdivision of the State; and

**WHEREAS**, Chapter 791 of the Texas Government Code provides that any one or more public agencies may contract with each other for the performance of governmental functions or services in which the contracting parties are mutually interested; and

**WHEREAS**, Section 370.033(7) of the RMA Act permits the Authority to enter into agreements with other governmental entities for transportation project development related services; and

**WHEREAS**, Section 791.028(b) of the Texas Government Code authorizes a local government to contract with another local government to pay jointly all or part of the costs of a state or local highway, turnpike, or road project, including the cost of an easement or interest in land required for or beneficial to the project; and

**WHEREAS**, the City, the Authority, and the County of El Paso are cooperating on a project to improve Montwood Drive by constructing an extension of Montwood Drive between Shreya Street and Rich Beem Boulevard (the “Montwood Project”); and

**WHEREAS**, the successful completion of the Montwood Project will improve mobility and the quality of life in the City and the County of El Paso; and

**WHEREAS**, for purposes of the Montwood Project, the City is responsible for acquiring certain rights-of-way along or adjacent to Montwood Drive that are necessary for the Montwood Project; and

**WHEREAS**, as a joint road project with other local public entities and agencies, the City may use funds from its 2022 Community Progress Bonds for acquiring property for the Montwood Project; and

**WHEREAS**, the Authority, through its consultants and contractors, has the professional capability and experience to acquire property for the Montwood Project, including performing property assessment and acquisition, as well as completing the documentation necessary for annexation into the municipal city limits; and

**WHEREAS**, the Parties agree that the Authority's acquisition and preparation of annexation documentation for the property will expedite the delivery of the Montwood Project to the City and County of El Paso;

**WHEREAS**, the City and Authority desire to enter into this Agreement to allow for the Authority to complete the acquisition and preparation of annexation documentation services as requested and funded by the City; and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

## **I. FINDINGS**

**A. Recitals.** The Recitals set forth above are incorporated herein for all purposes and are found by the Parties to be true and correct. It is further found and determined that the Parties have authorized and approved the Agreement by resolution or order adopted by their respective governing bodies.

## **II. DUTIES AND RESPONSIBILITIES OF THE AUTHORITY**

**A. Scope of Services.** Subject to the terms of this Agreement, the Authority shall perform the services related to the appraisal, acquisition, and preparation of annexation documentation for 18 parcels of land necessary for the Montwood Project. A detailed description of the services to be provided by the Authority are included in **EXHIBIT A** to this Agreement ("Scope of Services"), which is incorporated herein by reference.

**B. Effective Date.** The effective date of this Agreement shall be the day that the El Paso City Council approves this Agreement (the "Effective Date"), as noted on the signature page below.

**C. Time of Performance.** The Authority shall commence the provision of services on the Effective Date. The term of the Agreement shall end on either 1) 18 months from Effective Date or 2) the date on which the Authority completes its Scope of Services, whichever date occurs first, unless terminated earlier as permitted herein. Notwithstanding anything herein to the contrary, all real property rights, including any rights of way, acquired by the Authority in connection with the Montwood Project pursuant to the terms of this Agreement shall be transferred to the City prior to the any termination of this Agreement.

**D. Estimated Budget.** An estimated budget to complete the Scope of Services is set forth in **EXHIBIT B** to this Agreement (the "Estimated Budget"), which is incorporated herein by

reference. The Parties will cooperate in efforts to minimize the costs reflected in the Estimated Budget. The Parties acknowledge and agree that the Estimated Budget does not include the purchase price of the properties that Authority shall acquire on behalf of the City; nor does the Estimated Budget include the cost of services related to eminent domain that may be required. See Paragraph J, Section II, below.

**E. Costs in Excess of Estimated Budget.** Should actual costs exceed the amounts provided in the Estimated Budget, the Authority shall not commence or continue services until it has notified the City Engineer, in writing, and received approval of the City Engineer, in writing, to proceed. For purposes of this Paragraph E, Section II, the provision of notice or approval “in writing” shall include providing notice or approval by email. The Authority shall not be obligated to pursue or complete the Scope of Work if the funds available from the City are insufficient to pay all costs required for completion of such services and the City fails to provide additional funding to cover the amount of such deficiency.

**F. Limited Use of Funds.** Funds provided by the City under this Agreement shall be used only for the work performed pursuant to the Scope of Services.

**G. Authority Performance Measures.** Some of the services being provided pursuant to this Agreement are an extension of the services being provided to the Authority under agreements with contractors or under consulting agreements with third-party professionals. As such, the Authority shall ensure, through its agreements with such contractors and third-party professionals, that the same performance measures are established and maintained for the performance of the services delivered pursuant to this Agreement as are applicable to work performed by such contractors and third parties on other Authority Projects. The Authority shall enforce such measures and standards on the City’s and the Authority’s behalf, and the Authority shall not agree to modify performance measures, as they may relate to the services contemplated herein, without the prior written consent of the City.

**H. Reports to the City.** The Authority shall, at such times and in such form as the City may reasonably request, furnish periodic information concerning the status of the progress on Authority’s Scope of Services and the performance of the Authority’s obligations under this Agreement.

**I. Accounting.** The Authority shall use diligence to ensure that the use of funds provided by the City is for proper and documented expenditures. Complete books and records shall be maintained by the Authority of payments made pursuant to this Agreement. All such books and records shall be deemed complete if kept in accordance with the Governmental Accounting Standards Board’s principles and in accordance with the provisions of the RMA Act. Such books and records shall be available for examination by the duly authorized officers or agents of the City during normal business hours upon request made not less than five (5) business days prior to the date of such examination. In addition, the Authority shall coordinate with the City’s Auditor’s Office to provide information and documentation necessary for the City to complete its annual books, records and reports for each fiscal year, during which: (1) Funds are/were distributed pursuant to this Agreement; (2) Any relevant warranties are/were in effect; and/or (3) Any relevant claims are/were outstanding.

**J. The Exercise of Eminent Domain Authority.** The Authority's Scope of Services does not include eminent domain services. The Parties agree that, should it become necessary to exercise eminent domain authority to acquire property, the Parties shall reevaluate the Scope of Services and, if agreeable to both Parties, amend the Agreement to include such eminent domain services and any other necessary revisions or take such other actions as mutually agreed upon.

### **III. DUTIES AND OBLIGATIONS OF THE CITY**

**A. Compensation.** The City shall provide funds to the Authority as identified within **EXHIBIT B** for the costs of those services specified within **EXHIBIT A**.

**B. Not-to-Exceed Amount.** In no event shall the City pay more than \$475,655.86 as identified within **EXHIBIT B** for services performed in accordance with this Agreement. The Parties acknowledge and agree that this amount does not include the purchase price of the properties that Authority shall purchase on behalf of the City; nor does the Estimated Budget include the cost of services related to eminent domain that may be required.

**C. Form of Payment; Purchase of Real Property Interests.**

1. The Authority shall submit monthly invoices to the City for acquisition services rendered by the Authority and its consultants, which shall be paid by the City within fifteen (15) days of receipt, to ensure compliance with the Texas Prompt Payment Act. Submittals shall also include status reports in a form and style reasonably agreed upon by the City.
2. Upon negotiation of a purchase price on one or more parcels, the Authority shall submit such information to the City prior to making a final offer to the property owner(s). Prior to the purchase of any property on behalf of the City, the Authority shall obtain an independent appraisal of the property's market value on behalf of the City as required by Section 252.051 of the Texas Local Government Code. The Authority shall ensure that the appraisal is addressed to both the Authority and the City; and the Authority shall provide the City with a copy of the appraisal within a reasonable time of the appraisal's completion. The Authority must receive approval of the final purchase price from the City before proceeding with the purchase. Should a property owner accept the final offer, the Authority shall request payment for the same from the City.
3. The City, recognizing the expediency of property closings, shall make payment to the Authority within seven (7) calendar days of written request by the Authority, so as to avoid unnecessary delays, and associated expenses, in the acquisition of such parcel(s).
4. Notices and other communications made pursuant to this Paragraph C, Section III, may be made via email.



**D. Financial Obligations of the City.** The City shall have no financial obligation to make any payment, in whole or in part, on behalf of, or to, the Authority, unless specifically provided in accordance with the terms of this Agreement, its exhibits, or amendments.

**E. Disclosure of Information.** The City covenants and agrees that it shall cooperate with the Authority to ensure the timely completion of the Scope of Services within specified and agreed upon budgets and shall promptly provide the Authority with such information or support as may be necessary for the Authority to satisfy its obligations under this Agreement.

#### **IV. PARTY REPRESENTATIVES AND LEGAL NOTICES**

**A. Party Representatives.** The designated representatives authorized to communicate on behalf of each party hereto, and the addresses to which notices due hereunder should be directed, are as follows, unless and until either Party is otherwise notified in writing by the other:

**City:**

City Engineer  
P.O. Box 1890  
El Paso, Texas 79901

**Authority:**

Executive Director  
801 Texas Avenue  
El Paso, Texas 79901

For purposes of this Paragraph A, Section IV, the designated representative may specify a second person who is also authorized to communicate on behalf of the party by notifying the other party in writing. For purposes of this Paragraph A, Section IV, written notification shall include an email.

**B. Limitations on City Representative.** Notwithstanding anything contained herein to the contrary, any amendment to this Agreement shall be in writing and shall require the action of the City Council.

**C. Legal Notices.** Any and all notices and communications under this Agreement shall be in writing and mailed by first-class mail, or hand delivered, addressed to the following designated officials:

**City:**

City Engineer  
P.O. Box 1890  
El Paso, Texas 79901

**Authority:**

Executive Director  
801 Texas Avenue  
El Paso, Texas 79901

#### **V. TERMINATION**

**A. Termination for Convenience.** Either party may terminate this Agreement without cause after 30 days written notice to the other party of the intention to terminate this Agreement. The party providing services under this Agreement will halt all work when the termination notice sent by the terminating party is received by the non-terminating party.

**B. Termination for Cause.** Either party may terminate this Agreement if one party fails to fulfill the obligations set out in this Agreement. Before terminating this Agreement pursuant to this provision, the terminating party will provide written notice of intent to terminate enumerating the failures for which the termination is being sought and provide at least 30 calendar days to the non-terminating party to cure such failure.

**C. Transfer of Real Property Interests.** Prior to any termination of this Agreement, all real property rights, including any rights of way, acquired by the Authority in connection with the Montwood Project shall be transferred to the City.

## **VI.**

### **NO INDEMNIFICATION**

**A. No Indemnification.** The Parties agree that neither Party will have the right to seek indemnification or contribution from the other Party for any losses, costs, expenses, or damages arising from this Agreement.

**B. Claims.** Each party must handle any claims resulting from their actions in this Agreement.

**C. Acts and Omissions.** Each Party agrees that each will be responsible for the acts or omissions of its respective representatives.

## **VII.**

### **GENERAL PROVISIONS**

**A. Waiver.** Neither this Agreement nor any of the terms hereof may be waived or modified orally, but only by an instrument in writing signed by the Party against which the enforcement of the waiver or modification shall be sought. No failure or delay of any Party, in any one or more instances (i) in exercising any power, right or remedy under this Agreement or (ii) in insisting upon the strict performance by the other Party of such other Party's covenants, obligations or agreements under this Agreement, shall operate as a waiver, discharge or invalidation thereof, nor shall any single or partial exercise of any such right, power or remedy or insistence on strict performance, or any abandonment or discontinuance of steps to enforce such a right, power or remedy or to enforce strict performance, preclude any other or future exercise thereof or insistence thereupon or the exercise of any other right, power or remedy.

**B. Other Services.** Nothing in this Agreement shall be deemed to create, by implication or otherwise, any duty or responsibility of either of the Parties to undertake or not to undertake any other service, or to provide or not to provide any service, except as specifically set forth in this Agreement or in a separate written instrument executed by both Parties.

**C. Governmental Immunity.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either of the Parties nor to create any legal rights or claims on behalf of any third party. Neither of the Parties waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.



**D. Amendments and Modifications.** This Agreement may not be amended or modified except in writing and executed by both Parties to this Agreement and authorized by their respective governing bodies.

**E. Independent Contractor Relationship.** This Agreement does not create an employee-employer relationship between the Authority and the City. As such, neither party is subject to the liabilities or obligations the other party obtains under the performance of this Agreement.

**F. Time is of the Essence.** The times and dates specified in this Agreement are material to this Agreement.

**G. Confidentiality.** The Authority acknowledges that this Agreement is subject to Chapter 552 of the Texas Government Code (Texas Public Information Act). The release of the Agreement as a whole or in part must comply with the Texas Public Information Act.

**H. Governing Law and Venue.** This Agreement is governed by Texas law. For any and all disputes arising under this Agreement, venue shall be in El Paso County, Texas.

**I. Compliance with Laws.** The parties will comply with all applicable laws, administrative orders, and any rules or regulations relating to the obligations under this Agreement.

**J. Successors and Assigns.** This Agreement shall bind and benefit the respective Parties and their legal successors, and shall not be assignable, in whole or in part, by any Party hereto without first obtaining the written consent of the other Party.

**K. Entire Agreement.** This Agreement constitutes the entire agreement between the parties.

**L. Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision(s), and the rights and obligations of the Parties shall be construed and enforced in accordance therewith. The Parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

**M. Execution in Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed as of the date first written above, when both Parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.

**N. Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**O. Section 791.011 (d) (3), Texas Government Code.** Pursuant to Section 791.011(d)(3) of the Texas Government Code, each party paying for the performance of governmental functions or services will make those payments from current revenues available to the paying party.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2024.


**CITY OF EL PASO, TEXAS**

\_\_\_\_\_  
Oscar Leeser, Mayor


**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Roberta Brito  
Assistant City Attorney

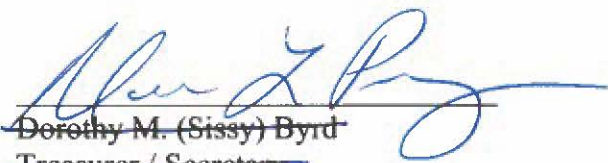
**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Yvette Hernandez, P.E., City Engineer  
Capital Improvement Department

**CAMINO REAL  
REGIONAL MOBILITY AUTHORITY**

  
\_\_\_\_\_  
Joyce A. Wilson, Chair

**ATTEST:**

  
\_\_\_\_\_  
~~Dorothy M. (Sissy) Byrd~~  
~~Treasurer / Secretary~~  
MONICA L. PEREZ  
SECRETARY

## **EXHIBIT A**

### **AUTHORITY'S SCOPE OF WORK**

1. **ROW ACQUISITION SERVICES**

The Authority will provide services associated with the acquisition of eighteen (18) parcels needed for the construction of the Montwood Drive Project. A graphic showing the parcels to be acquired is attached in Attachment 1 of this **EXHIBIT A**, which is incorporated herein by reference.

The ROW Acquisition Services to be completed by the Authority shall include, but are not limited to, the services described and outlined in Attachment 2 of this **EXHIBIT A**, which is incorporated herein by reference.

2. **TRANSFER OF PROPERTIES**

The parcels shall be acquired in the Authority's name and subsequently transferred to the City, at a date to be agreed upon between the Parties.

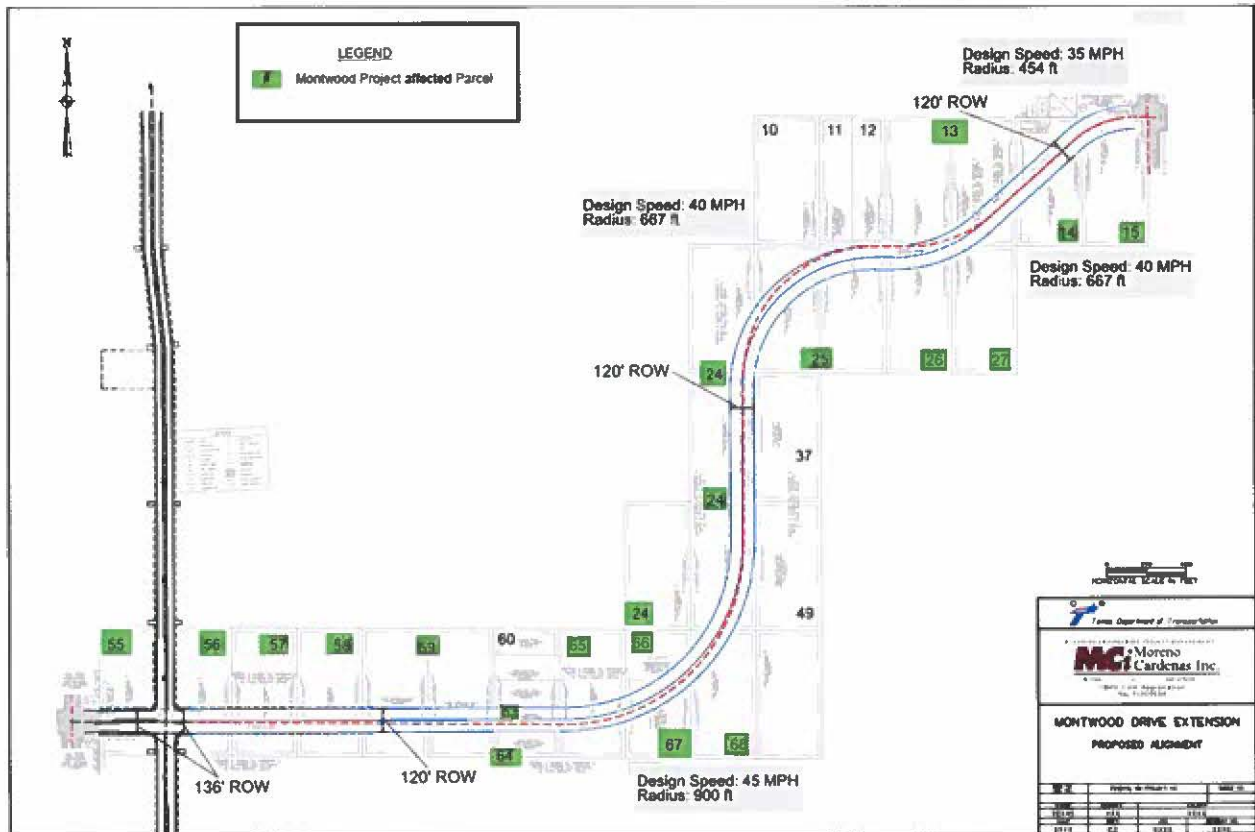
3. **ANNEXATION SERVICES**

After acquisition of the parcels, the Authority will be responsible for completing all documentation required by the City's Application for Annexation document (version identified as "Revised 4/2020") for the 18 identified parcels.

[ATTACHMENT 1 AND ATTACHMENT 2 ON THE FOLLOWING PAGES]

# ATTACHMENT 1

## PARCELS TO BE ACQUIRED



[END OF ATTACHMENT 1]

## ATTACHMENT 2

### **SERVICES TO BE PROVIDED BY THE GENERAL ENGINEERING CONSULTANT ("GEC")**

#### **INTRODUCTION**

The scope of work for this work authorization includes Right of Way Acquisition, Appraisal, Appraisal Review, Title, and Annexation services for the Montwood Drive Extension Project, which is being jointly developed by the City of El Paso, El Paso County, and the Authority. The services requested of the GEC, by and through the Authority, shall be provided for the acquisition of eighteen (18) parcels, as well as the development of annexation documentation for such parcels along the proposed Montwood Drive extension from Shreya Street to Rich Beem Boulevard, as more fully identified herein.

#### **TASK 1 - RIGHT OF WAY ACQUISITION SERVICES**

- **Project Management Services ("Project Management")**
  - GEC shall prepare and deliver one monthly invoice for services provided under this work authorization utilizing standard payment submission forms with supporting documentation. Supporting documentation requirements are determined by the AUTHORITY.
  - GEC shall attend monthly status meetings with date, required attendees, time and location to be determined by the AUTHORITY.
  - GEC will coordinate all required right of way related activities with the project surveyor, title company, appraiser, review appraiser, acquisition agents, relocation agents, condemnation support staff and condemnation attorney(s).
  - GEC will conduct weekly or bi-weekly right of way acquisition status meetings with project personnel to update status and identify action items.
  - GEC will report project status to the AUTHORITY as requested.
  - GEC shall coordinate with staff and contractors that have the responsibility of utility accommodation, coordination, and verification that result in the adjustment of utilities such that construction of the transportation project can proceed without delay.
- **Negotiation Service**
  - GEC shall prepare initial property owner contact list.
  - GEC shall, at a minimum, provide a monthly written report on the status of service tasks completed and service tasks remaining in order to bring each parcel into possession.
  - Electronic parcel files must be kept with permanent records transferred to the AUTHORITY. GEC shall maintain working files in the GEC's project management office. GEC shall electronically submit all documents generated or received by the GEC to the AUTHORITY office. Upon closing of a parcel, GEC shall transfer all remaining documents not previously submitted. GEC shall submit documents required to be hard copies as generated.

- GEC shall maintain copies of all correspondence and contacts with property owners.
- GEC shall maintain records of all payments including, but not limited to, warrant number, amount, and date paid.
- GEC shall analyze preliminary Title Commitment report to determine potential title problems. This includes analysis of access easements.
- GEC shall secure Title Commitment updates in accordance with insurance rules and requirements for parcel payment submissions. There should not be any changes at this point, but if there are changes (such as abstractor's fees) these costs must be reimbursed to the GEC as pass-through costs; any such costs must be approved by the AUTHORITY in advance.
- GEC shall analyze appraisal and appraisal review reports and confirm the approved value prior to making an offer for each parcel.
- GEC shall prepare and send the letter transmitting the Landowners' Bill of Rights by Certified Mail-Return Receipt Requested (CMRRR).
- GEC shall provide property description to the property owner.
- Securing Possession and Use Agreement for Transportation Purposes with Additional Payment of Independent Consideration (PUAIC) is part of general Negotiation Services. GEC shall explain and provide the opportunity for the property owner to execute a PUAIC in accordance with the AUTHORITY or TxDOT policy and procedures.
- GEC shall prepare all documents required or requested by the AUTHORITY on applicable TxDOT forms (i.e., the initial offer letter, memorandum of agreement, instruments of conveyance).
- GEC shall send the written offer, appraisal report, and required brochures to each property owner or the property owner's designated representative through CMRRR; maintain coordination of all closing activities, including but not limited to following-up on contacts and securing the necessary instruments upon acceptance of the offer; and retain copies of the unsigned CMRRR receipt and the appraisal as support for billing purposes.
- GEC shall respond to property owner inquiries verbally and in writing within two business days.
- GEC shall prepare a separate negotiator contact report for each parcel, per contact, on applicable TxDOT forms.
- The curative services necessary to provide a clear title are the responsibility of the GEC and thus are part of the GEC's fee for Negotiation Services and Condemnation Support Services. Curative services do not include costs and expenses that qualify as payment of incidental expenses to transfer real property. Incidental expenses not paid to the title company are reimbursed as a pass-through cost but must be approved by the GEC in advance.
- GEC shall have direct contact with the title company to obtain an updated Title Commitment along with other forms and certified copies of the instrument of conveyance necessary when requesting the parcel payment through the AUTHORITY.
- All original documents generated or received by the GEC must be delivered to AUTHORITY. Copies or working file documents must be kept by the GEC.
- GEC shall maintain parcel files of original documentation related to the purchase of



- the real property or property interests.
- GEC shall provide closing services in conjunction with the title company and shall be required to attend closings. In the event of a closing by mail, title work must be reviewed prior to the closing by mail and again prior to recording of the instrument.
- GEC shall record all original instruments immediately after closing at the respective county clerk's office.
- GEC shall advise property owner of the administrative settlement process, assist them with the preparation of a counteroffer package, and shall transmit any written counteroffer from property owners including applicable forms, supporting documentation and written comments with regard to Administrative Settlements in accordance with the AUTHORITY's policy and procedures.
- GEC shall secure title insurance for all parcels acquired, insuring acceptable title. Written approval by the AUTHORITY is required for any exception.
- GEC shall appear and provide Expert Witness testimony as required.
- GEC shall follow current TxDOT guidelines when negotiating parcels.
- **Condemnation Support Services**
  - In the event acquisition efforts by the GEC are unsuccessful, GEC shall prepare and send all final file documents to the AUTHORITY required to initiate eminent domain activities.

## **TASK 2 – APPRAISAL AND APPRAISAL REVIEW SERVICES**

- GEC shall select and use only Appraisers certified by the Texas Appraiser Licensing and Certification Board (TALCB). The selected appraiser should also possess additional credentials from recognized appraisal professional organizations.
- All appraisal services must comply with the Uniform Standards of Professional Appraisal Practice ("USPAP") and applicable Texas Law.
- **Initial Real Estate Appraisal Services**
  - Appraisers must provide advance notice of the date and time of their appraisal inspections of the subject property to the GEC Project Manager in order to coordinate the Appraiser's inspection with (if applicable and practical) the initial interview with the Displacee by the Relocation Agent.
  - GEC shall prepare and conduct personal pre-appraisal contact with interest owners or their designated representative. The appraiser shall also contact the property owner prior to their inspection for each parcel and offer each owner the opportunity to accompany the Appraiser and Relocation Agent on the inspection of the subject property. The records of contact shall be part of the parcel file.
  - With the information from the GEC, the Appraiser must secure permission from the owner to enter the property from which real estate is to be acquired. If after diligent effort the Appraiser is unable to secure the necessary permission from the property owner, a written waiver must be obtained from the AUTHORITY. The permission or written waiver must be incorporated into the appraisal reports.
  - The assignment for an initial and update appraisal are two separate and distinct

appraisal assignments. The fee for each assignment must be reflective of the complexity of the specific individual assignment.

- For an initial appraisal assignment, the Appraiser shall prepare an appraisal estimating total compensation for each parcel to be acquired in a format that conforms to and complies with Standard 2-2(a) of the USPAP for an “Appraisal Report” as promulgated by the Appraisal Foundation.
  - As necessary, GEC shall prepare written notification to the AUTHORITY of any environmental concerns associated with the right of way to be acquired, which may require environmental re-mediation.
  - All completed appraisals must be administratively reviewed and recommended for approval.
  - Processing monthly invoices for appraisal services will not be delayed for the purpose of the completion of the administrative review.
  - GEC coordinates with the Review Appraiser (if applicable) regarding revisions, comments, or additional information that might be required.
  - The Review Appraiser must coordinate with the Appraiser.
- **Appraisal Review Services**
    - Review Appraiser must review all appraisal reports for each parcel to determine consistency of values, supporting documentation related to the conclusion reached and the USPAP.
    - Review Appraiser shall prepare and submit an appraisal review report which complies with content in Standard 4-2 of the USPAP for each appraisal review assignment.
    - The assignment for the review of an initial and update appraisal are two separate and distinct appraisal review assignments. The fee for each review assignment must be reflective of the complexity of the specific individual review assignment.
    - The review appraiser shall review appraisal reports for the purposes of establishing total compensation for eminent domain purposes.
    - The review appraiser will recommend the appraisal reports and total compensation for approval or acceptance, by use of a report which complies with Standard 4-2 of USPAP, which serves as the appraisal review report for the reviewer.
    - The appraisal reviews of appraisal reports will be performed within the requirements of the USPAP and with acceptable appraisal review standards for eminent domain purposes. Recognized methods and techniques of credible appraisal reports and reviews which are taught in appraisal courses and found in texts and publications should also be a reference for the review appraiser.
    - Appraisal reviews that require a conclusion, approval, agreement, or release of a value shall constitute a “technical review” and will comply with the related requirements.

### **TASK 3 – TITLE SERVICES**

- **Title Examination**

The GEC will provide title examination and closing services for the project through a subcontractor on behalf of the AUTHORITY and City of El Paso. Services rendered will

include the following:

- Upon receipt of a legal description of the parcel(s) required from the project surveyor, the GEC will provide a title commitment indicating current ownership along with a copy of the vesting documents to support Schedule A. The GEC will also provide all recorded documents shown as exceptions to title on Schedule B of the title commitment and all documents shown as title curative requirements on Schedule C of the title commitment. The GEC will depend on this information to deliver clear title to the parcels being acquired.
  - The GEC will provide updates to title commitment as required by the AUTHORITY though the life cycle of the project.
  - If a parcel to be acquired requires acquisition by eminent domain, the GEC will review pleadings to confirm that the condemnation proceeding will dispose of all interests and vest fee simple title in the AUTHORITY and/or City of El Paso.
- **Title Policy**

The GEC, through a subcontractor, will serve as escrow agent and provide closing services upon receipt of funds for the parcel being acquired, including the following:

    - The GEC will prepare settlement statements on a HUD-1 form along with other affidavits or closing requirements. The GEC will provide these documents to the AUTHORITY for review and execution, as required, prior to closing.
    - The GEC will provide in person closings or mail outs to owners as necessary.
    - The GEC will disburse funds to sellers, with all normal closing costs to be charged to the AUTHORITY and/or City of El Paso.
    - All deeds and required title curative documents will be appropriately recorded with the County Clerk of El Paso County.
    - The GEC will deliver an owner's policy of title insurance to the AUTHORITY and/or City of El Paso, showing said entity as the named insured.
    - The GEC will comply with any special requirements (such of deletion of survey exception) or other requirements as specified by the AUTHORITY and City of El Paso.

#### **TASK 4 – ANNEXATION SERVICES**

- Complete the annexation form and initiate the annexation application process.
- Assist in coordination throughout annexation process.
- Attend Pre-Application Meeting with planning staff.
- Provide a Generalized Development Plan – A digital copy of a general development plan drawn at a scale of at least 1" = 50' showing:
  - Legal description of the property;
  - The boundaries of the property;
  - Location of existing buildings and structures;
  - General arrangement of existing and proposed land uses, including any zoning proposed, and including but not limited to, parks, schools, public facilities and civic places sites; open space, trails, streets, bikeways, major drainage ways and transit corridors.
  - The proposed density expressed in units per acre and population by land use projected

- for the next ten years.
- Layout and relationship of the proposed development to surrounding land uses, including zoning.
- Contact the City of El Paso and provide one (1) copy of a certificate from title company authorized to do business in the state of Texas demonstrating that the individual(s) or corporation making the application for annexation is the current property owner.

## **TASK 5 – METES AND BOUNDS SERVICES**

All surveying will comply with the Professional Land Surveying Practices Act, Article 5282c, Vernon's Texas Civil Statutes. All surveying will comply with applicable rules promulgated by the Texas Board of Professional Land Surveying. The Manual of Practice published by the Society of Professional Surveyors will be used as a guide in determining accuracy requirements and procedures to follow. The field surveying efforts will include the following:

- Thoroughly assess all 18 parcels scheduled for annexation, ensuring their proper setup, documentation, and accurate coordinates. Additionally, include three (3) extra parcels that require both a Topography Survey and a Metes and Bounds Description. Assist in guiding the completion of annexation forms.
- One (1) copy of a written, sealed Metes and Bounds Description shall contain the stamp or seal of a registered land surveyor and shall be dated within one year of the application submittal date.
- A Survey Map – The Metes and Bounds Description shall be accompanied by one (1) copy of a survey map that shall contain the legal description, the stamp or seal of a registered land surveyor, and shall be dated within one year of the application submittal date. If there are existing structures on the subject property, they will be described accurately on the survey map.

## **ASSUMPTIONS**

- The AUTHORITY will coordinate and handle all condemnation proceedings.
- Hourly rates and overhead rates shown in Exhibit B are estimates or averages used for the purpose of establishing the not to exceed budget for this work authorization.
- Property Management, disposal of property, and required demolition activities will be provided by the AUTHORITY or City of El Paso.
- Project consists of fee simple acquisition and annexation of eighteen (18) parcels.
- The project does not include State or Federal funding.
- Relocation assistance services are not required on this project.
- The title fees include estimated title premium costs based on estimated parcel values not yet determined by the appraiser.
- The appraisal fees given by appraiser are based upon a preliminary drawing provided and fall within certain appraisal fee categories based on the preliminary drawing. These fees may change based upon updated drawings and surveys.
- A “desk top” appraisal review will be performed instead of a full review. The appraisal review will not require the review appraiser to travel to the project to personally inspect the subject parcel and comparable sales.

- All negotiation efforts by GEC's licensed agents will be handled remotely with no travel to El Paso, TX.

## EXCLUSIONS

- Environmental studies and/or assessments.
- Application fees and public notice mailing and newspaper publication costs.

## DEFINITIONS

- **Appraisal** - The act or process of developing an opinion of value of or pertaining to appraising and related functions such as appraisal practice or appraisal services. (Source: USPAP 2018 – 2019 edition)
- **Appraisal Review** - The act or process of developing and communicating an opinion about the quality of another Appraiser's work that was performed as part of an appraisal or appraisal review. (Source: USPAP 2018 – 2019 edition)
- **Appraiser** - One who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective. (Source: USPAP 2018 – 2019 edition)
- **Department-Certified Appraiser** - An Appraiser certified by TxDOT to perform real estate appraisal services and who has an active state-certification by the Texas Appraiser Licensing and Certification Board.
- **State-Certified General Appraiser** - An individual that is certified as a General Real Estate Appraiser by the Texas Appraiser Licensing and Certification Board which carries the authorization to appraise all types of real property without regard to complexity or transaction value. The term "State-Certified General Appraiser" can be used interchangeably with "Real Estate Appraiser" and "Appraiser."
- **Real Estate Appraiser (Department Certified)** - An individual licensed to provide real estate appraisal services in the State of Texas and certified by TxDOT. The terms "Appraiser," "Real Estate Appraiser," and "Department-Certified Real Estate Appraiser" are used interchangeably.
- **Review Appraiser** - The term "Review Appraiser" is used when referencing a Department-Certified Real Estate Appraiser that is performing Appraisal Review Services for the Department and is signing and certifying the review document.
- **Sub-Provider** - An individual or a firm that performs work through a contractual agreement with the GEC. The terms "sub-provider" and "subcontractor" can be used interchangeably.
- **Uniform Act** - Uniform Relocation Assistance and Real Property Acquisition Policies Act.

[END OF ATTACHMENT 2 AND EXHIBIT A]

**EXHIBIT B**

**ESTIMATED BUDGET**

| <b>DESCRIPTION</b>                      | <b>TOTAL<br/>ESTIMATED<br/>COST</b> | <b>AUTHORITY<br/>PAYS WITH CITY<br/>FUNDS</b> | <b>AUTHORITY PAYS<br/>WITH OTHER<br/>FUNDS</b> |
|---|-------------------------------------|---|--|
| <b>ENGINEERING<br/>(Surveying etc.)</b> | <b>\$ 271,352.75</b>                | <b>\$ 271,352.75</b>                          | <b>\$ 0.00</b>                                 |
| <b>PROJECT<br/>MANAGEMENT</b>           | <b>\$ 48,000.00</b>                 | <b>\$ 48,000.00</b>                           | <b>\$ 0.00</b>                                 |
| <b>APPRAISALS</b>                       | <b>\$ 60,500.00</b>                 | <b>\$ 60,500.00</b>                           | <b>\$ 0.00</b>                                 |
| <b>TITLE SERVICES</b>                   | <b>\$ 38,484.72</b>                 | <b>\$ 38,484.72</b>                           | <b>\$ 0.00</b>                                 |
| <b>ANNEXATION</b>                       | <b>\$ 57,318.39</b>                 | <b>\$ 57,318.39</b>                           | <b>\$ 0.00</b>                                 |
| <b>TOTAL</b>                            | <b>\$ 475,655.86</b>                | <b>\$ 475,655.86</b>                          | <b>\$ 0.00</b>                                 |

[END OF EXHIBIT]