

Oscar Leaser  
Mayor

Tommy Gonzalez  
City Manager



CITY COUNCIL  
Peter Svarzbein, District 1  
Alexandra Anello, District 2  
Cassandra Hernandez, District 3  
Joe Molinar, District 4  
Isabel Salcido, District 5  
Claudia L. Rodriguez, District 6  
Henry Rivera, District 7  
Cissy Lizarraga, District 8

## **AGENDA FOR THE REGULAR COUNCIL MEETING**

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**August 30, 2022**

**COUNCIL CHAMBERS, CITY HALL, 300 N. CAMPBELL AND VIRTUALLY  
9:00 AM**

**THE LOCAL HEALTH AUTHORITY STRONGLY RECOMMENDS THE USE OF  
MASKS IN ALL CITY FACILITIES AND INDOOR SPACES**

**Teleconference phone number: 1-915-213-4096**

**Toll free number: 1-833-664-9267**

**Conference ID: 996-706-592#**

**AND**

**AGENDA REVIEW MEETING  
COUNCIL CHAMBERS, CITY HALL  
300 N. CAMPBELL AND VIRTUALLY**

**August 29, 2022**

**9:00 AM**

**Teleconference phone number: 1-915-213-4096**

**Toll free number: 1-833-664-9267**

**Conference ID: 390-567-484#**

Notice is hereby given that an Agenda Review Meeting will be conducted on August 29, 2022 at 9:00 A.M. and a Regular Meeting of the City Council of the City of El Paso will be conducted on August 30, 2022 at 9:00 A.M. Members of the public may view the meeting via the following means:

Via the City's website. <http://www.elpasotexas.gov/videos>

Via television on City15,

YouTube: <https://www.youtube.com/user/cityofelpasotx/videos>

In compliance with the requirement that the City provide two-way communication for members of the public, members of the public may communicate with Council during public comment, and regarding agenda items by calling the following number:

1-915-213-4096 or Toll free number: 1-833-664-9267

**At the prompt please enter the corresponding Conference ID:**

**Agenda Review, August 29, 2022 Conference ID: 390-567-484#**  
**Regular Council Meeting, August 30, 2022 Conference ID: 996-706-592#**

**The public is strongly encouraged to sign up to speak on items on this agenda before the start of this meeting on the following links:**

**For Call to the Public: <https://elpasotx.seamlessdocs.com/f/SpeakerSignUpFormPublic>**

**To speak on Agenda Items: <https://elpasotx.seamlessdocs.com/f/SpeakerSignUpFormItem>**

**A quorum of City Council must participate in the meeting.**

**ROLL CALL**

**INVOCATION BY EL PASO POLICE CHAPLAIN JOE MARATTA**

**PLEDGE OF ALLEGIANCE**

**MAYOR'S PROCLAMATIONS**

**EPCC Arts in Education Week**

**Elvira Galvan Galindo Remembrance Day**

**Hunger Action Month**

**NOTICE TO THE PUBLIC**

All matters listed under the CONSENT AGENDA, including those on the Addition to the Agenda, will be considered by City Council to be routine and will be enacted by one motion unless separate discussion is requested by Council Members. Prior to the vote, members of the audience may ask questions regarding items on the consent agenda. When the vote has been taken, if an item has not been called out for separate discussion, the item has been approved. Council may, however, reconsider any item at any time during the meeting.

**CONSENT AGENDA - APPROVAL OF MINUTES:**

**Goal 6: Set the Standard for Sound Governance and Fiscal Management**

1. Approval of the Minutes of the Regular City Council Meeting of August 16, 2022.

**[22-1113](#)**

**All Districts**

City Clerk's Office, Laura D. Prine, (915) 212-0049



## **CONSENT AGENDA - REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:**

2. REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS [22-1126](#)

## **CONSENT AGENDA - RESOLUTIONS:**

### **Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development:**

3. That Schedule C to the FY 2022 Budget Resolution and effective September 1, 2021, shall be amended as set forth in Attachment A of the Resolution, to establish a commercial air carrier's employee parking rate under Section 14.24.080 of the City Code. [22-1093](#)

#### **All Districts**

Airport, Sam Rodriguez, (915) 212-7301

4. That the City Manager, or designee, is authorized to sign a Lessor's Approval of Assignment on Butterfield Trail Industrial Park Lease by and between the City of El Paso, Alamo Properties Joint Venture a Texas Joint Venture, and JQBC Spur, L.L.C., regarding the following described property: A portion of Lot 8, Block 12, Butterfield Trail Industrial Park, Unit Three, El Paso International Airport City of El Paso, El Paso County, Texas (approximately 199,436 SQ FT), commonly known as 34 Spur Drive, El Paso, Texas. [22-1094](#)

Term beginning on January 01, 1989 ("Effective Date"), and ending on December 31, 2028 for an annual rent fee of \$48,522.72 or \$4,043.56 per month.

#### **District 3**

Airport, Sam Rodriguez, (915) 212-7301

5. That the City Manager, or designee, is authorized to sign a Lessor's Approval of Assignment on Butterfield Trail Industrial Park Lease by and between the City of El Paso, SNRA Commodities, Inc., and Prent Corporation, regarding the following described property: A portion of Lots 6 & 8, Block 3, Butterfield Trail Industrial Park, Unit One, El Paso International Airport City of El Paso, El Paso County, Texas (approximately 134,084.219 SQ FT), commonly known as 19 Founders Blvd., El Paso, Texas. [22-1095](#)

Term beginning on March 01, 1983 ("Effective Date"), and ending on February 28, 2023 for an annual rental fee of \$23,169.72 or \$1,930.81 per month.

#### **District 3**

Airport, Sam Rodriguez, (915) 212-7301

6. That the City Manager be authorized to sign a Fourth Amendment to a Fuel Site Lease Agreement between the City of El Paso ("Lessor") and Southwest Airlines Co. ("Lessee") for approximately 42,640 square feet of Airport-owned [22-1101](#)

property used for fuel storage and a 1,000 square foot maintenance facility located at 7619 Boeing Dr., El Paso Texas.

Annual Rental Fees: 42,640 SF x \$0.60 per SF per annum = \$25,584.00. No rental adjustment is due at this time. This Fourth Amendment adds a one-year extension to the term of the lease, which would then expire on August 31, 2023.

**District 3**

Airport, Sam Rodriguez, (915) 212-7301

7. That the City Manager be authorized to sign a Boeing Business District Lease Agreement by and between the City of El Paso ("Lessor") and Chenausky Property and Investments, LLC ("Lessee"), for an general aviation ground lease comprising of approximately 0.689 acres, or 30,013 square feet municipally known and numbered as 7309 Boeing Drive El Paso, Texas.

[22-1102](#)

The forty (40) year initial term begins on August 30, 2022 ("Effective Date") and ends on August 29, 2062. The annual rental fee is \$13,199.72 or \$1,099.98 per month. There is one option to extend the lease for an additional ten (10) years that can be exercised with a 180-day notice to the Lessor.

**District 3**

Airport, Sam Rodriguez, (915) 212-7301

8. A Resolution authorizing the City Manager to sign a License Agreement between the City of El Paso and AT&T Corp. for the install, repair and maintain of fiber optic conduit running across the Paso Del Norte Bridge, for a term of seven (7) years with the option of three additional five-year terms, for a Total Fee of \$61,320.23, which is subject to a 5% annual increase.

[22-1108](#)

**District 8**

International Bridges, Karina Brasgalla, (915) 212-1570

International Bridges, David Coronado, (915) 212-7505

9. Resolution to authorize the City Manager to sign a Seventh Amendment and Lessor's Approval of Assignment of the Golf Course Operation and Concession Agreement by and among the City of El Paso ("Lessor"), Bueno Investments, Inc ("Assignor") and EP GolfCo, LLC ("Assignee") for the following described property: A portion of Morehouse Survey No. 12 and a portion of Section 40, Block 80 TSP 2 T&P Survey, City of El Paso, El Paso County, Texas, municipally known as Lone Star Golf Club (f/k/a/ Cielo Vista Golf Course) located at 1510 Hawkins Blvd., El Paso Texas.

[22-1110](#)

**District 3**

Airport, Sam Rodriguez, (915) 212-7301

**Goal 2: Set the Standard for a Safe and Secure City**

10. That the Mayor be authorized to sign an Interlocal Cooperation Agreement (the "Agreement") between the City of El Paso, Texas ("City") and the Ysleta del Sur Pueblo ("Pueblo") to facilitate fire and emergency response during emergency conditions occurring within the City or the Pueblo, to expire on August 31, 2022, or as extended through automatic renewal through 2027.

[22-986](#)

**All Districts**

Fire, Interim Chief Jonathan Killings, (915) 212-5665

11. That the Mayor be authorized to sign an Interlocal Cooperation Agreement (the "Agreement") between the City of El Paso, Texas ("City") and the El Paso County Emergency Services District No. 1 ("District") to provide fire and emergency response during emergency conditions occurring within the City or the District, to expire on September 30, 2022, or as extended through automatic renewal through 2027.

[22-987](#)

**All Districts**

Fire, Interim Chief Jonathan Killings, (915) 212-5665

12. That the Mayor be authorized to sign an Interlocal Cooperation Agreement (the "Agreement") between the City of El Paso, Texas ("City") and the El Paso County Emergency Services District No. 2 ("District") to provide fire and emergency response during emergency conditions occurring within the City or the District, to expire on September 30, 2022, or as extended through automatic renewal through 2027.

[22-988](#)

**All Districts**

Fire, Interim Chief Jonathan Killings, (915) 212-5665

13. That the Mayor be authorized to sign an Interlocal Governmental Agreement between the City of El Paso and the County of El Paso/District Attorney, 34th Judicial District of the State of Texas, for services to the City and its Police Department relating to arrests and prosecution of criminal cases in connection with the District Attorney's Information Management System (DIMS) program. The County of El Paso will fund DIMS in the amount of \$531,222.72 (69%) while the City will fund DIMS in an amount not to exceed \$238,665.28 (31 %).

[22-1117](#)

**All Districts**

Police, Assistant Chief Zina Silva, (915) 212-4306

**Goal 3: Promote the Visual Image of El Paso**

14. That the Solid Waste liens on the attachment posted with this agenda be approved (See Attachment A).

[22-1088](#)

**District 1, 2, 3, 4, 5, 7, 8**

Environmental Services, Ellen A. Smyth, (915) 212-6000

15. Resolution to authorize the City Manager to execute a Sponsorship Agreement between the City of El Paso and CommUNITY en Accion (a Texas NonProfit Organization) wherein, CommUNITY en Accion will sponsor name plaques and granite for Treacherous Crossing Public Art Project, an installation at the El Paso Museum of History, for the amount of \$35,000.00, and to make any budget transfers required to ensure that the funds are properly expended for such purpose and to execute any related documents or amendments to carry out this purpose.

[22-1098](#)

**District 8**

**Goal 8: Nurture and Promote a Healthy, Sustainable Community**

16. Approve a Resolution to Authorize the City Manager to sign on to joint comments drafted by a group of local governments in Texas. The comments will be filed in to the Sunset Advisory Commission currently reviewing the mission and performance of the Public Utility Commission of Texas (PUCT).

[22-1107](#)

**All Districts**

Community and Human Development, Nicole Ferrini, (915) 212-1659

**CONSENT AGENDA - BOARD APPOINTMENTS:**

**Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments**

17. Carlos Saenz to the Parks and Recreation Advisory Board by Representative Isabel Salcido, District 5.

[22-1128](#)

Members of the City Council, Representative Isabel Salcido, (915) 212-0005

18. Richard Bustamante to the Parks and Recreation Advisory Board by Representative Cissy Lizarraga, District 8.

[22-1138](#)

Members of the City Council, Representative Cissy Lizarraga, (915) 212-0008

**Goal 8: Nurture and Promote a Healthy, Sustainable Community**

19. Kathryn R. Lucero to the Women's Rights Commission by Representative Henry Rivera, District 7.

[22-1125](#)

Members of the City Council, Representative Henry Rivera, (915) 212-0007

**CONSENT AGENDA - APPLICATIONS FOR TAX REFUNDS:**

**Goal 6: Set the Standard for Sound Governance and Fiscal Management**

20. That the tax refunds listed on the attachment posted with this agenda be approved. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments greater than \$2,500.00. (See Attachment B)

[22-1096](#)

**All Districts**

Tax Office, Maria O. Pasillas, (915) 212-1737

**CONSENT AGENDA - NOTICE FOR NOTATION:**

**Goal 5: Promote Transparent and Consistent Communication Amongst All Members of the Community**

21. Accept the donation of \$470 worth of school supplies from El Paso Disposal for community engagement events in District 3. [22-1127](#)

**District 3**

Members of the City Council, Representative Cassandra Hernandez, (915) 212-0003

**CONSENT AGENDA - NOTICE OF CAMPAIGN CONTRIBUTIONS:**

**Goal 5: Promote Transparent and Consistent Communication Amongst All Members of the Community**

22. For notation pursuant to Section 2.92.080 of the City Code, receipt of campaign contributions by Representative Joe Molinar in the amount of \$5,000.00 from the El Paso Municipal Police Officers Association. [22-1123](#)

**District 4**

Members of the City Council, Representative Joe Molinar, (915) 212-0004

23. For notation pursuant to Section 2.92.080 of the City Code, receipt of the following campaign contributions by City Representative Claudia L. Rodriguez, District 6 : \$80.00 from Claudia and Manuel Vasquez; \$80.00 from Sylvia and Genaro Ruvalcaba; \$180.00 from Jeseh Rivera; \$150.00 from Alicia Rivera; \$100.00 from Dina and Adrian Zamarripa; \$20.00 from Soledad Cadena; \$160.00 from Aybil Guzman; \$100.00 from Rafael De La Rosa; \$100.00 from Lizette and Ruben Reyes; \$100.00 from Elisa and Marcos Rivera; \$40.00 from Deborah Barron; \$100.00 from Erika Urbina; \$100.00 from Carlos Sierra; \$100.00 from Manuel and Evelyn Urbina; \$200.00 from Rick and Sharon Bonart; \$100.00 from Lizzet and Jazmine Urbina; \$500.00 from Ben Ivey; \$2,500.00 from David Cordero; \$2,500.00 from Steve Ortega; \$2,500.00 from JP Bryan. [22-1130](#)

**District 6**

Members of the City Council, Representative Claudia L. Rodriguez, (915) 212-0006

**CONSENT AGENDA - BEST VALUE PROCUREMENTS:**

**Goal 7: Enhance and Sustain El Paso's Infrastructure Network**

24. The linkage to the Strategic Plan is subsection 7.5 - Set One Standard for Infrastructure Across the City. [22-1077](#)

**Award Summary:**

The award of Solicitation 2022-0535 Janitorial Services - Municipal Court to Ace Government Services, LLC for an initial three (3) year term for an estimated amount of \$202,797.00. The award also includes a two (2) year option for an

estimated amount of \$135,198.00. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$337,995.00. This contract will allow janitorial services at municipal court.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$71,253.00 for the initial term, which represents a 54.17% increase due to increased labor costs.

Department: Municipal Court  
Vendor: Ace Government Services, LLC  
El Paso, TX  
Item(s): All  
Initial Term: 3 years  
Option to Extend: 2 years  
Annual Estimated Award: \$67,599.00  
Initial Term Estimated Award: \$202,797.00 (3 years)  
Total Estimated Award: \$337,995.00 (5 years)  
Account No.: 111 - 1000 - 522060 - 11010  
Funding Source: General Fund  
District(s): All

This is a Best Value contract.

The Purchasing & Strategic Sourcing and Municipal Courts Departments recommend award as indicated to Ace Government Services, LLC, the bidder offering the best value bid.

In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
Municipal Court, Lilia Worrell, (915) 212-5822

**CONSENT AGENDA - REQUEST FOR PROPOSAL:**

**Goal 6: Set the Standard for Sound Governance and Fiscal Management**

- 25.** The linkage to Strategic Plan is subsection 6.6 - Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.

**[22-1118](#)**

**Award Summary:**

That in accordance with the City's Debt Management Policy, the List of Qualified Professional Underwriters compiled from Solicitation 2022-0472R is hereby approved and the City Manager or his designee is authorized to select the appropriate underwriting firms to provide underwriting services for future

City debt issuances or other financings from the List in rotating order. The selection and rotation of the underwriting firm will depend on the number of firms necessary for a particular issuance, which will vary based on the size and complexity of the issuance. All associated fees will be negotiated at the time of issuance. Said List shall remain in effect from August 30, 2022 through August 29, 2027, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee. Although the City anticipates using this list as the basis for selecting underwriters for future use, the City reserves the right to solicit underwriters for certain future debt instruments that, in the sole opinion of the City, require additional consideration or specialty.

1. Barclays Capital Inc.
2. Cabrera Capital Markets, Inc.
3. Estrada Hinojosa & Company, Inc.
4. Frost Bank
5. Jefferies Financial Group Inc. DBA Jefferies LLC
6. J.P. Morgan Broker-Dealer Holding, Inc. DBA J.P. Morgan Securities LLC
7. Loop Capital LLC DBA Loop Capital Markets LLC
8. Morgan Stanley Domestic Holdings, Inc. DBA Morgan Stanley & Co. LLC
9. Oppenheimer & Co., Inc
10. Piper Sandler & Co
11. Raymond James & Associates, Inc.
12. RBC Capital Markets, LLC
13. Samuel A. Ramirez & Co., Inc.
14. Siebert Williams Shank & Co., LLC
15. Stephens Inc.
16. Stifel, Nicolaus & Company, Inc.
17. UMB Bank, N.A.

This is a Request for Proposals, requirements contract.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

#### **All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
City Manager's Office, Robert Cortinas, (915) 212-1062

### **CONSENT AGENDA - BIDS:**

#### **Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments**

26. The linkage to the Strategic Plan is subsection 4.2 - Create innovative recreational, educational and cultural programs

[22-1087](#)

#### **Award Summary:**

The award of Solicitation 2022-0826 JP Shawver Park Improvements to BLACK STALLION CONTRACTORS, INC. for a total estimated award of \$175,271.71.



The project consists of new 3-wall handball court, installation of solar light fixtures, concrete sidewalks and modifications to the existing irrigation system.

Department: Capital Improvement  
Award to: BLACK STALLION CONTRACTORS, INC.  
El Paso, TX  
Item(s): Base Bid I  
Initial Term: 180 Consecutive Calendar Days  
Base Bid I: \$175,271.71  
Total Estimated Award: \$175,271.71  
Funding Source: Community Development Block Grant  
Accounts: 471-2400-71240-580270-G7146CD68  
District(s): 7

This is a Low Bid procurement, unit price contract.

The Purchasing & Strategic Sourcing and Capital Improvement Departments recommend award as indicated to BLACK STALLION CONTRACTORS, INC., the lowest responsive and responsible bidder.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

#### **District 7**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
Capital Improvement Department, Yvette Hernandez, (915) 212-1845

### **REGULAR AGENDA - MEMBERS OF THE CITY COUNCIL**

#### **Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development:**

27. Discussion and action on a Resolution that the City of El Paso proudly honors and recognizes District 1 City Representative and Mayor Pro Tempore Peter Svarzbein for being elected the first Latino Chairman of Sister Cities International.

[22-1089](#)

#### **All Districts**

Members of the City Council, Representative Henry Rivera, (915) 212-0007



28. Presentation and update by the City Manager on the status of grants and/or loans provided to small businesses through the Small Business Emergency Relief Program managed by LiftFund, to include a list of any businesses attached to a lien. [22-1137](#)

**District 7**

Members of the City Council, Representative Henry Rivera, (915) 212-0007

**Goal 2: Set the Standard for a Safe and Secure City**

29. Discussion and action to approve a Resolution that the City Council declares that the expenditure of District 8 discretionary funds in an amount not to exceed \$5,846.70 for the use of El Paso Police Department patrol units and officers to support the Bowie 100th Anniversary Legacy Parade to be held on September 1, 2022, serves a municipal purpose of setting the standard for a safe and secure city; enhancing El Paso's quality of life; and fostering community pride; and that the City Manager be authorized to effectuate any budget transfer necessary to ensure that the funds are properly expended for such purpose and to execute any related agreements and amendments to such agreements. [22-1135](#)

**District 8**

Members of the City Council, Representative Cissy Lizarraga, (915) 212-0008

**Goal 3: Promote the Visual Image of El Paso**

30. Discuss the 2022 Sister Cities International U.S. - Mexico Mayor's Community Summit host in San Diego-Tijuana October 11-14. The City of El Paso will be able to promote its uniqueness and reinforce the existing relationships with other Mexican cities and the United States. [22-1122](#)

**All Districts**

Members of the City Council, Representative Peter Svarzbein, (915) 212-1002

**Goal 8: Nurture and Promote a Healthy, Sustainable Community**

31. Discussion and action to allow the Animal Shelter Advisory Committee ("ASAC") to participate in bi-annual events that do not require a monetary contribution in partnership with City of El Paso Animal Services and other organizations to increase adoptions, raise public awareness, and address the needs and welfare of animals, pursuant to Ordinance No. 017746, ASAC originating ordinance. [22-1099](#)

**All Districts**

Members of the City Council, Representative Aleksandra Annello, (915) 212-0002

32. Discussion and action to recognize September as Suicide Prevention Month, a time for people to raise awareness of suicide prevention, treatment, and recovery. [22-1136](#)

**District 2**

Members of the City Council, Representative Aleksandra Annello, (915) 212-0002

## **REGULAR AGENDA - OPERATIONAL FOCUS UPDATES**

### **Goal 8: Nurture and Promote a Healthy, Sustainable Community**

33. Presentation and discussion on El Paso Animal Services management update.

[22-1100](#)

#### **All Districts**

Animal Services Department, Terry Kebschull, (915) 212-8742

### **CALL TO THE PUBLIC – PUBLIC COMMENT:**

Call to the Public will begin at 12:00 p.m. Requests to speak must be received by 9:00 a.m. on the date of the meeting. Sixty minutes in total will be devoted for Call to the Public. This time is reserved for members of the public who would like to address the City Council on items that are not on the City Council Agenda.

Members of the public may communicate with Council during public comment, and regarding agenda items by calling 1-915-213-4096 or toll free number 1-833-664-9267 at the prompt please enter the following Conference ID: 996-706-592#

A sign-up form is available on line for those who wish to sign up in advance of the meeting at: <https://elpasotx.seamlessdocs.com/f/SpeakerSignUpFormPublic>

### **REGULAR AGENDA – OTHER BIDS, CONTRACTS, PROCUREMENTS:**

### **Goal 2: Set the Standard for a Safe and Secure City**

34. The linkage to the Strategic Plan is subsection: 2.3 - Increase public safety operational efficiency.

[22-1115](#)

#### **Award Summary:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to TargetSolutions Learning, LLC d/b/a Vector Solutions, the sole provider for the annual maintenance of Target Solutions training software for Fire Department uniform personnel and 911 Communications personnel for a term of three (3) years for an estimated amount of \$182,714.13 with the stipulation that the vendor provides an updated sole source letter and affidavit each year. The award of this contract will allow the use of this continuing education software for the El Paso Fire Department uniform personnel and 911 Communications personnel to track training and credentials to meet Texas Commission on Fire Protection (TCFP) and Texas Department of State Health Services (TDSHS) requirements.

#### **Contract Variance:**

The difference based in comparison to the previous contract is as follows: A

decrease of \$7,496.37, which represents a 3.94% decrease due to the reduced number of access to personnel.

Department: Fire  
Award to: TargetSolutions Learning, LLC d/b/a Vector Solutions  
Tampa, FL  
Term: 3 years  
Annual Estimated Amount: \$ 60,904.71  
Total Estimated Award: \$182,714.13 (3 Years)  
Account No.: 522020-239-1000-15240-P1506  
Funding Source: General Funds  
Districts(s): All  
Sole Source No.: 2022-0924

This is a Sole Source, service contract.

The Purchasing & Strategic Sourcing and Fire Departments recommend award as indicated to TargetSolutions, LLC d/b/a Vector Solutions the sole provider for the annual maintenance of Target Solutions training software.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
Fire, Chief Jonathan P. Killings, (915) 493-5609

**Goal 6: Set the Standard for Sound Governance and Fiscal Management**

35. The linkage to Strategic Plan is subsection 6.2 - Implement employee benefits and services that promote financial security.

[22-1091](#)

Award Summary:

Discussion and action on the award of Solicitation No. 2022-0038R 457(b) Deferred Compensation Plan Administrator and 401(a) Profit Sharing Plan Administrator to Empower Retirement, LLC for an initial five (5) year term. The award is to include a two (2), two (2) year optional terms for a total of nine (9) years.

Contract Variance:

Not applicable, no cost to the City.

Department: Human Resources  
Award to: Empower Retirement, LLC  
Greenwood Village, CO  
Item(s): All  
Initial Term: 5 years  
Option to Extend: Two (2), two (2) years  
Annual Estimated Award: N/A

Initial Term Estimated Award: N/A  
Option Term Estimated Award: N/A  
Total Estimated Award: N/A  
Account No: N/A  
Funding Source: Employee Voluntary Contributions Only  
District(s): All

This is a Request for Proposal, service contract.

The Purchasing & Strategic Sourcing and the Human Resources Departments recommend award as indicated to Empower Retirement, LLC the highest ranked proposer based on evaluation factors established for this procurement. In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
Human Resources, Araceli Guerra, (915) 212-1401

36. The linkage to Strategic Plan is subsection 6.2 - Implement employee benefits and services that promote financial security.

[22-1114](#)

**Award Summary:**

Discussion and action on the request that the Director of Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order to USI Southwest, Inc., referencing Contract 2019-1063R Property Insurance. This will be a change order to increase the contract by \$682,201.40 for a total amount not to exceed \$3,411,006.98 for the initial term. The change order will cover expenses for property insurance annual premium increases from August 30, 2020 to July 1, 2023.

Contract Variance:  
No contract variance

Department: Human Resources  
Award to: USI Southwest, Inc.  
El Paso, TX  
Total Estimated Amount: \$682,201.40  
Account No.: 999-9999-1000-544090  
Funding Source Non-departmental - Property Insurance Expense  
District(s): All

This is a Request for Proposal, services contract.

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
Human Resources, Araceli Guerra, (915) 212-1401

37. The linkage to Strategic Plan is subsection 6.6 - Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.

[22-1116](#)

Award Summary:

Discussion and action that the City Manager be authorized to sign an agreement for Contract No. 2022-0411R Professional Municipal Advisory Services between the City and Hilltop Securities, Inc., for a contract term of three (3) years beginning on September 1, 2022 and ending on, August 31, 2025, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee; and whereas, the fees due to Hilltop Securities, Inc., for municipal advisory services will not exceed the fee schedule of a base fee of \$25,000.00 plus \$1.30 per \$1,000.00 for the first \$75,000,000.00 of bonds issued, plus \$1.15 per \$1,000.00 thereafter. The City will also pay for reimbursable expenses and for additional services for the completion of debt issuance.

This is a Request for Qualifications, service contract.

The Purchasing & Strategic Sourcing Department and City Manager's Office recommend award as indicated to Hilltop Securities, Inc., the highest ranked proposer based on evaluation factors established for this procurement.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
City Manager's Office, Robert Cortinas, (915) 212-1062

**Goal 8: Nurture and Promote a Healthy, Sustainable Community**

38. The linkage to Strategic Plan is subsection 8.1 - Deliver prevention, intervention and mobilization services to promote a healthy, productive and safe community.

[22-1119](#)

Award Summary:

Discussion and action of the award of Solicitation No. 2022-0039 Security Guard Services to Night Eyes Protective Services, Inc., for an initial term of three (3) years for an estimated amount of \$759,504.00. The award also includes a two (2) year option for an estimated amount of \$506,336.00. The total contract value is, including the initial term plus option is five (5) years, for an estimated amount of \$1,265,336.00.

Contract Variance:

The difference based in comparison to the previous contract is as follows: An increase of \$197,536.32 for the initial term, which represents a 355.08% increase due to an increase in sites resulting in additional hours and an increase in hourly rates.

Department: Health  
Award to: Night Eyes Protective Services, Inc.  
El Paso, TX  
Item(s): ALL

Initial Term: 3 years  
Option to Extend: 2 years  
Annual Estimated Award: \$ 253,168.00  
Initial Term Estimated Award: \$ 759,504.00 (3 years)  
Option Term Estimated Award: \$ 506,336.00 (2 years)  
Total Estimated Award: \$1,265,840.00 (5 years)  
Account No.: 522120 - 341 - 1000 - 41170  
Funding Source: General Funds  
District(s): All

This is a Best Value procurement contract.

The Purchasing & Strategic Sourcing and the Public Health Departments recommend award as indicated to Night Eyes Protective Services, Inc., the highest ranked bidder based on evaluation factors established for this procurement. In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
Public Health, Hector I. Ocaranza, (915) 212-6502

**REGULAR AGENDA – PUBLIC HEARINGS AND SECOND READING OF ORDINANCES:**

**Goal 3: Promote the Visual Image of El Paso**

39. An Ordinance vacating a 1,947 square-foot portion of Grandview Avenue located within Block 7, Highland Park Addition, City of El Paso, El Paso County, Texas.

[22-1007](#)

Subject Property: 1901 Grandview Ave.  
Applicant: Physician Reliance, LLC SURW22-00003

**District 8**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553  
Planning and Inspections, Jorge Olmos, (915) 212-1607

40. An Ordinance vacating a 1,742 square-foot portion of a 20 foot wide alley and utility easement located within Block 2, Mills Map Addition, City of El Paso, El Paso County, Texas.

[22-1013](#)

Subject Property: 415 North Mesa St.  
Applicant: Mills Plaza Properties VIII, LP SURW22-00002

**District 8**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553  
Planning and Inspections, Jorge Olmos, (915) 212-1607

**Goal 6: Set the Standard for Sound Governance and Fiscal Management**

41. An Ordinance amending Ordinance 8064 (Classification and compensation Plan) to amend Section 4.5 (Observed Holidays) to add Cesar Chavez Day. [22-998](#)

**All Districts**

Human Resources, Araceli Guerra, (915) 212-1241

**REGULAR AGENDA - OTHER BUSINESS:**

**Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development**

42. Discussion and action that the City Manager be authorized to sign the Agreement for Professional Services by and between the City of El Paso and Parkhill, Smith & Cooper, Inc., a Domestic For-Profit Corporation, for a project known as "EPIA-Taxiway Golf Reconstruction", for an amount not to exceed \$876,370.00; that the City Engineer is authorized to approve additional Basic Services and Reimbursable Expenses for an amount not to exceed \$50,000.00; and to approve Additional Services for an amount not to exceed \$50,000.00; if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount not to exceed \$976,370.00; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement. [22-1082](#)

**All Districts**

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

43. Discussion and action that the City Manager be authorized to sign the Agreement for Professional Services by and between the City of El Paso and Garver, LLC., an Arkansas professional limited liability company authorized to do business in Texas, for a project known as "EPIAGeneral Aviation Ramp Reconstruction", for an amount not to exceed \$1,913,810.00; that the City Engineer is authorized to approve additional Basic Services and Reimbursable Expenses for an amount not to exceed \$50,000.00; and to approve Additional Services for an amount not to exceed \$50,000.00; if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount not to exceed \$2,013,810.00; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement. [22-1090](#)

Funding source: FAA Grant and Airport Enterprise Funds.

**All Districts**

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

44. Discussion and action on the approval of a Resolution to authorize the City Manager to accept and sign a grant agreement for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant from the United States Department of Transportation (USDOT) for the Ysleta Port of Entry Pedestrian and Related Improvements Project. This authorization shall include the original grant agreement, any related modifications, and any other [22-1106](#)



documents when the form and substance of those documents have been reviewed and approved by the City Attorney's Office, and the authorization will include the ability to sign multiple agreements and documents, as the grant might be issued in various disbursement. That the City Manager may be authorized to approve and sign any budget transfers needed to establish appropriations in connection with this grant. The total grant amount shall include an estimated federal share of \$12,000,000 and an estimated match of \$3,000,000 to be paid for with P3 Funds, totaling \$15,000,000 for the Ysleta Port of Entry Pedestrian and Related Improvements Project.

**All Districts**

Economic and International Development, Anne Guayante, (915) 212-1623

45. Discussion and action on a Resolution of the City Council of the City of El Paso nominating Phelps Dodge Refining Corporation for participation in the Texas Enterprise Zone Program, a state sales and use tax refund program designed to encourage private investment and job creation and/or retention in economically distressed areas of the state.

[22-1109](#)

**All Districts**

Economic and International Development, Bill Allen, (915) 212-1619

Economic and International Development, Elizabeth Triggs, (915) 212-1619

**Goal 3: Promote the Visual Image of El Paso**

46. Discussion and action on an appeal by the property owner of 1121 Terrace Court, El Paso, Texas in the Sunset Heights Historic District regarding a decision rendered by the Historic Landmark Commission (HLC) in HLC Case PHAP22-00022 on June 6, 2022, to deny a Certificate of Appropriateness for the referenced property. [POSTPONED FROM 08-16-2022]

[22-1049](#)

**District 8**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Providencia Velasquez, (915) 212-1567

**Goal 6: Set the Standard for Sound Governance and Fiscal Management**

47. Discussion and action to approve the El Paso County 911 District FY 2022 - 2023 Budget to be presented by Scott Calderwood, Director.

[22-1097](#)

**All Districts**

City Manager's Office, K. Nicole Cote, (915) 212-1092

**Goal 7: Enhance and Sustain El Paso's Infrastructure Network**

48. Discussion and action that the City Manager be authorized to sign a two year On-Call Professional Services Agreement to perform surveying services on a task-by-task basis by and between the City of El Paso and each of the following three (3) consultants:

[22-1092](#)

1. Brock & Bustillos, Inc.



2. Cobb, Fendley & Associates, Inc.
3. Frank X. Spencer & Associates, Inc.

Each On Call Agreement will be for an amount not to exceed \$300,000.00, and each agreement will include authorization for the City Engineer to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and authorization for the City Engineer to approve Additional Services for an amount not to exceed \$50,000.00 if the identified services are necessary for proper execution of identified project and if the increased amounts are within the appropriate budget identified for a project. In addition, the City Manager is authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of each On-Call Agreement.

**All Districts**

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

49. Discussion and action that the City Manager or his designee be authorized to sign required documents and submit an application to the Texas Military Preparedness Commission for the Defense Economic Adjustment Assistance Grant (DEAAG) for the construction of the McGregor Range Waterline Replacement.

[22-1124](#)

**All Districts**

El Paso Water, Lisa Franklin Rosendorf, (915) 594-5669

**Goal 8: Nurture and Promote a Healthy, Sustainable Community**

50. Discussion and action that the City Manager be authorized to sign an agreement between the City of El Paso and the El Paso Veterinary Medical Association (EPVMA) for the City of El Paso to transfer \$1.5 million to the EPVMA to promote overall community health by increasing spaying and neutering pets to promote a healthy and sustainable animal community in the City.

[22-1104](#)

**All Districts**

Animal Services Department, Terry Kebschull, (915) 212-8742

**EXECUTIVE SESSION**

The City Council of the City of El Paso may retire into EXECUTIVE SESSION pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Chapter 551, Subchapter D, to discuss any of the following: (The items listed below are matters of the sort routinely discussed in Executive Session, but the City Council of the City of El Paso may move to Executive Session any of the items on this agenda, consistent with the terms of the Open Meetings Act and the Rules of City Council.) The City Council will return to open session to take any final action and may also, at any time during the meeting, bring forward any of the following items for public discussion, as appropriate.

Section 551.071	CONSULTATION WITH ATTORNEY
Section 551.072	DELIBERATION REGARDING REAL PROPERTY
Section 551.073	DELIBERATION REGARDING PROSPECTIVE GIFTS

Section 551.074 PERSONNEL MATTERS  
Section 551.076 DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS  
Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS  
Section 551.089 DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS; CLOSED  
MEETING

## **ADJOURN**

### **NOTICE TO THE PUBLIC:**

Sign Language interpreters are provided for regular City Council meetings. If you need Spanish Interpreter Services, you must email [CityClerk@elpasotexas.gov](mailto:CityClerk@elpasotexas.gov) at least 72 hours in advance of the meeting.

**ALL REGULAR CITY COUNCIL AGENDAS ARE PLACED ON THE INTERNET ON THURSDAY  
PRIOR TO THE MEETING AT THE ADDRESS BELOW:**

<http://www.elpasotexas.gov/>



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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File #: 22-1113, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

City Clerk's Office, Laura D. Prine, (915) 212-0049

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Approval of the Minutes of the Regular City Council Meeting of August 16, 2022.



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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**File #: 22-1126, Version: 1**

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

**REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS**



Legislation Text

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File #: 22-1093, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Airport, Sam Rodriguez, (915) 212-7301

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That Schedule C to the FY 2022 Budget Resolution and effective September 1, 2021, shall be amended as set forth in Attachment A of the Resolution, to establish a commercial air carrier's employee parking rate under Section 14.24.080 of the City Code.

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

**DEPARTMENT:** Aviation

**AGENDA DATE:** August 30, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:** Sam Rodriguez, PE – Director of Aviation – 915-212-7301

**DISTRICT(S) AFFECTED:** All

**CITY STRATEGIC GOAL:** No. 2: Set the Standard for a Safe and Secure City

**SUBJECT:**

That Schedule C to the FY 2022 Budget Resolution and effective September 1, 2021, shall be amended as set forth in Attachment A, to establish a commercial air carrier's employee parking rate under Section 14.24.080 of the City Code.

**BACKGROUND / DISCUSSION:**

Previously all employees and tenants were required to purchase identification badges in order to use the designated employee parking. This action will remove the identification badge from being issued for some of our air carrier employees. Additionally, all associated required training and vetting forms will not be a requirement for these air carrier employees.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Airport Enterprise Funds – \$45,000

**BOARD / COMMISSION ACTION:**

N/A

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

**DEPARTMENT HEAD:**

  
Sam Rodriguez, Aviation Director

**RESOLUTION AMENDING SCHEDULE C FOR  
THE CITY OF EL PASO FY2022 FEE SCHEDULE**

**WHEREAS**, the City Council adopted the Budget Resolution for FY 2022 on August 24, 2021; and

**WHEREAS**, paragraph 50 of the Budget Resolution provides that any revisions or additions to the fees listed in Schedule C, or the process or formula used for setting fees, shall be approved by simple resolution of the City Council; and

**WHEREAS**, the City Council desires that the Airport may charge a commercial air carriers employee parking facilities rate for as allowed under City Code Section 14.24.080; and

**WHEREAS**, this Amendment to Schedule C ensures cost recovery and sound fiscal management.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF EL PASO:**

That Schedule C, attached to the FY 2022 Budget Resolution and effective September 1, 2021, shall be amended as set forth in Attachment A, to establish a commercial air carriers employee parking rate under Section 14.24.080 of the City Code effective August \_\_, 2022.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_ 2022.

**ATTEST:**

**CITY OF EL PASO:**

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

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Department of Aviation

**“Attachment A”**

<b>Line No.</b>	<b>Account</b>	<b>Fee Description</b>	<b>Detail</b>	<b>Municipal Code Section</b>	<b>Increase Based On:</b>	<b>FY 2021 Amended Fees</b>	<b>FY 2022 Proposed Revised</b>
TBD	430040	Cost Recovery Rates	Commercial Air Carriers Parking Fee	Title 14	Analysis	N/A	\$35.00 per year per vehicle





Legislation Text

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File #: 22-1094, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 3**

Airport, Sam Rodriguez, (915) 212-7301

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the City Manager, or designee, is authorized to sign a Lessor's Approval of Assignment on Butterfield Trail Industrial Park Lease by and between the City of El Paso, Alamo Properties Joint Venture a Texas Joint Venture, and JQBC Spur, L.L.C., regarding the following described property: A portion of Lot 8, Block 12, Butterfield Trail Industrial Park, Unit Three, El Paso International Airport City of El Paso, El Paso County, Texas (approximately 199,436 SQ FT), commonly known as 34 Spur Drive, El Paso, Texas.

Term beginning on January 01, 1989 ("Effective Date"), and ending on December 31, 2028 for an annual rent fee of \$48,522.72 or \$4,043.56 per month.

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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Samuel Rodriguez, P.E. Aviation Director  
(915) 212-7301

**DISTRICT(S) AFFECTED:** 3

**STRATEGIC GOAL 1:** Create an Environment Conducive to Strong, Sustainable Economic Development

**SUBGOAL:** N/A

**SUBJECT:**

That the City Manager, or designee, is authorized to sign a Lessor's Approval Of Assignment on Butterfield Trail Industrial Park Lease by and between the City of El Paso, Alamo Properties Joint Venture a Texas Joint Venture, and JQBC Spur, L.L.C., regarding the following described property: A portion of Lot 8, Block 12, Butterfield Trail Industrial Park, Unit Three, El Paso International Airport City of El Paso, El Paso County, Texas (approximately 199,436 SQ FT), commonly known as 34 Spur Drive, El Paso, Texas.

With a term beginning on January 01, 1989 ("Effective Date"), and ending on December 31, 2028 for an annual rent fee of \$48,522.72 or \$4,043.56 per month.

**BACKGROUND / DISCUSSION:**

The current lease agreement expires December 31, 2028. If options are exercised the expiration date is December 31, 2038.

**PRIOR COUNCIL ACTION:**

- January 1, 1989 – Butterfield Trail Industrial Park Lease between City of El Paso and Alamo Properties Joint Venture.
- December 15, 1992 – Lessor's Approval of Assignment to Ansell Pacific, Inc.
- May 14, 1996 – Resolution rescinding Lessor's Approval of Assignment from Alamo Properties Joint Venture to Ansell Pacific, Inc.

**AMOUNT AND SOURCE OF FUNDING:**

N/A: This is a revenue-generating item.

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES   NO

**PRIMARY DEPARTMENT:** Aviation

**SECONDARY DEPARTMENT:** N/A

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

**DEPARTMENT HEAD:**



Samuel Rodriguez, P.E., Director of Aviation

## RESOLUTION

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

That the City Manager, or designee, is authorized to sign a Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), Alamo Properties Joint Venture ("Assignor"), and JQBC Spur, LLC ("Assignee") for the following described property:

A portion of Lot 8, Block 12, Butterfield Trail Industrial Park Unit Three, City of El Paso, El Paso County, Texas, commonly known as 34 Spur Drive, El Paso, Texas.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2022.

### CITY OF EL PASO

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

### ATTEST:

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

### APPROVED AS TO FORM:

\_\_\_\_\_  
Leslie B. Jean-Pierre  
Assistant City Attorney

### APPROVED AS TO CONTENT:

\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

STATE OF TEXAS       §  
                                   §  
 COUNTY OF EL PASO   §

### LESSOR'S APPROVAL OF ASSIGNMENT

The City of El Paso ("*Lessor*") entered into that certain Butterfield Trail Industrial Park Lease, dated effective January 1, 1989 (the "*Lease*"), between the Lessor and Alamo Properties Joint Venture ("*Assignor*");

WHEREAS, the Lease pertains to the following described property:

**A portion of Lot 8, Block 12, Butterfield Trail Industrial Park, Unit Three, City of El Paso, El Paso County, Texas, being more particularly described by metes and bounds on Exhibit A appended hereto and made a part hereof for all purposes ("Property");**

WHEREAS, Assignor has requested the Lessor's approval and consent to an assignment of the Lease to JQBC Spur, LLC.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to JQBC Spur, LLC, a Texas limited liability company ("*Assignee*"), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and upon the further condition that Assignee agree to accept and abide by all the terms, covenants, and conditions of the Lease.

Assignor and Assignee have executed and delivered this instrument to Lessor with the understanding that the same will only be effective to assign Assignor's interest in the Lease to Assignee as of the date of closing and funding of such transaction, but not otherwise. Unless and until such closing occurs, both Assignor and Assignee each reserve the right to terminate this instrument by providing written notice to Lessor. If either party delivers such termination notice, this instrument will be of no further effect, Assignor and Lessor will retain all of their respective rights and liabilities under the Lease and Assignee will have no interest therein.

2. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.

3. **RELEASE.** Assignor shall be released and discharged from all rights, privileges and obligations under the Lease arising from and after the effective date of the assignment of the Lease, and Assignee shall, as of the effective date of the assignment, enjoy all rights and privileges and be responsible for satisfying all such obligations the same as if the Lease had originally been executed between Lessor and Assignee.
4. **SECURITY DEPOSIT.** An Irrevocable Letter of Credit of Rental Bond in the amount equal to three months' rent is required.
5. **RATIFICATION OF AGREEMENT.** No provision of this consent alters or modifies any of the terms and conditions of the Lease. Except as expressly modified herein, all terms and conditions of the Lease shall remain in full force and effect.
6. **ADDRESS FOR NOTICE.** Notices to Assignee shall be sufficient if sent by certified mail, postage prepaid, addressed to:

**ASSIGNOR:** Alamo Properties Joint Venture  
 7450 Stonebrook Parkway, Apt. 5309  
 Frisco, Texas 75034  
 Attn: Ann Kellen

**ASSIGNEE:** JQBC Spur, LLC  
 Attn: William Ridgway Caparis  
 517 Trails End Court  
 El Paso, Texas 79932

7. **AUTHORIZED REPRESENTATIVE.** The person signing this Lessor's Approval of Assignment on behalf of the Assignee represents and warrants that he has the authority legally to bind the Assignee to the provisions of this Lessor's Approval of Assignment.
8. **NON-WAIVER.** The Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
9. **EFFECTIVE DATE:** The Effective Date of this Lessor's Approval of Assignment will be the date this document is approved by the El Paso City Council.
10. **COUNTERPARTS.** This Lessor's Approval of Assignment may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, and all of which shall constitute one and the same instrument as if all parties had signed the same signature page.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2022.

**LESSOR:**  
**CITY OF EL PASO**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Leslie B. Jean-Pierre  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

#### ACKNOWLEDGMENT

THE STATE OF TEXAS   )  
  )  
COUNTY OF EL PASO   )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2022 by  
Tomás González, as City Manager of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_

(SIGNATURES CONTINUE ON FOLLOWING PAGE)

ATTEST:

ASSIGNOR:

ALAMO PROPERTIES JOINT VENTURE

Printed Name: Mike Kellen

By: [Signature]

Name: Mike Kellen

Title: Joint Venturer

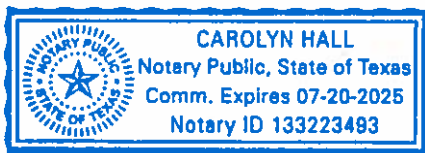
ACKNOWLEDGEMENT

STATE OF TEXAS )  
COUNTY OF collin )

This instrument was acknowledged before me on this 10<sup>th</sup> day of Aug, 2022, by Mike Kellen, Joint Venturer of Alamo Properties Joint Venture, on behalf of said joint venture.

[Signature]  
Notary Public State of Texas

My Commission Expires: 07/20/2025



ATTEST:

Anita Dominguez

Printed Name: Anita Dominguez

ASSIGNEE:

JQBC SPUR, LLC, a Texas limited liability company

By: William Ridgway Caparis

Name: William Ridgway Caparis

Title: Managing Member

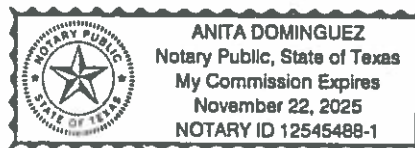
ACKNOWLEDGEMENT

STATE OF TEXAS )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on this 4<sup>th</sup> day of August, 2022, by William Ridgway Caparis, Managing Member of JQBC Spur, LLC, a Texas limited liability company, on behalf of said limited liability company.

Anita Dominguez  
Notary Public State of Texas

My Commission Expires: 11.22.2025





## EXHIBIT A

PROPERTY DESCRIPTION  
199,436 SQUARE FEET OR  
4.578 ACRES

Being a portion of Lot 8, Block 12, Butterfield Trail Industrial Park Unit Three, City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at a City Monument at the centerline intersection of Celerity Wagon Street (90.00 feet wide) and Spur Drive (90.00 feet wide);

THENCE, along the centerline of said Spur Drive, South 87°54'08" East, a distance of 1,104.65 feet to a point;

THENCE, leaving said centerline, South 02°05'52" West, a distance of 45.00 feet to a point in the south line of said Spur Drive and POINT OF BEGINNING for the herein described tract;

THENCE, along the south line of said Spur Drive, South 87°54'08" East, a distance of 702.10 feet to the northeast corner of said Lot 8;

THENCE, along the southeasterly line of said Lot 8, South 53°07'11" West, a distance of 903.16 feet to a point for corner;

THENCE, leaving said southeasterly line, North 02°05'52" East, a distance of 568.11 feet to the POINT OF BEGINNING and containing 4.578 acres of land.

PREPARED BY:  
Faught & Associates Inc.  
El Paso, Texas  
December 6, 1988  
Job No.: 5010-52N



Legislation Text

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File #: 22-1095, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 3**

Airport, Sam Rodriguez, (915) 212-7301

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the City Manager, or designee, is authorized to sign a Lessor's Approval of Assignment on Butterfield Trail Industrial Park Lease by and between the City of El Paso, SNRA Commodities, Inc., and Prent Corporation, regarding the following described property: A portion of Lots 6 & 8, Block 3, Butterfield Trail Industrial Park, Unit One, El Paso International Airport City of El Paso, El Paso County, Texas (approximately 134,084.219 SQ FT), commonly known as 19 Founders Blvd., El Paso, Texas.

Term beginning on March 01, 1983 ("Effective Date"), and ending on February 28, 2023 for an annual rental fee of \$23,169.72 or \$1,930.81 per month.

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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Samuel Rodriguez, P.E. Aviation Director  
(915) 212-7301

**DISTRICT(S) AFFECTED:** 3

**STRATEGIC GOAL 1:** Create an Environment Conducive to Strong, Sustainable Economic Development

**SUBGOAL:** N/A

**SUBJECT:**

That the City Manager, or designee, is authorized to sign a Lessor's Approval Of Assignment on Butterfield Trail Industrial Park Lease by and between the City of El Paso, SNRA Commodities, Inc., and Prent Corporation, regarding the following described property: A portion of Lots 6 & 8, Block 3, Butterfield Trail Industrial Park, Unit One, El Paso International Airport City of El Paso, El Paso County, Texas (approximately 134,084.219 SQ FT), commonly known as 19 Founders Blvd., El Paso, Texas.

With a term beginning on March 01, 1983 ("Effective Date"), and ending on February 28, 2023 for an annual rental fee of \$23,169.72 or \$1,930.81 per month.

**BACKGROUND / DISCUSSION:**

The current lease agreement expires December 31, 2028. If options are exercised the expiration date is February 28, 2033.

**PRIOR COUNCIL ACTION:**

- March 1, 1983 – Butterfield Trail Industrial Park Lease between City Of El Paso and Jark Joint Venture.
- December 9, 2014 - Lessor's Approval of Assignment to Golden Peanut Company, LLC.
- September 28, 2021 – Lessor's Approval of Assignment to SNRA Commodities, Inc.

**AMOUNT AND SOURCE OF FUNDING:**

N/A: This is a revenue-generating item.

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

**PRIMARY DEPARTMENT:** Aviation

**SECONDARY DEPARTMENT:** N/A

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

**DEPARTMENT HEAD:**

  
Samuel Rodriguez, P.E., Aviation Director

## RESOLUTION

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

That the City Manager, or designee, is authorized to sign a Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), SNRA Commodities, Inc. ("Assignor") and Prent Corporation ("Assignee") for the following described property:

A portion of Lots 6 & 8, Block 3, Butterfield Trail Industrial Park Unit One, El Paso International Airport City of El Paso, El Paso County, Texas, and commonly known as 19 Founders Blvd., El Paso, Texas.

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2022.

### CITY OF EL PASO

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

### ATTEST:

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

### APPROVED AS TO FORM:

\_\_\_\_\_  
Leslie B. Jean-Pierre  
Assistant City Attorney

### APPROVED AS TO CONTENT:

\_\_\_\_\_  
Samuel Rodríguez, P.E.  
Director of Aviation

STATE OF TEXAS           §  
                                      §       LESSOR'S APPROVAL OF ASSIGNMENT  
 COUNTY OF EL PASO   §

**WHEREAS**, the City of El Paso ("Lessor") entered into a Butterfield Trail Industrial Park Lease dated January 1, 1983 ("Lease") between the Lessor and Jark Joint Venture, subsequently assigned to Analytical Information Systems, Inc. dated December 30, 1986; subsequently assigned to Kemp Enterprises, Inc. dated July 21, 1998; subsequently assigned to Wood Traditions Furniture Co., Inc. dated September 25, 2007; subsequently assigned to Camilla Nut Company, LP dated December 18, 2007; subsequently assigned to Golden Peanut Company, LLC dated December 9, 2014; subsequently assigned to SNRA Commodities, Inc. ( the "Assignor"):

**WHEREAS**, the Lease pertains to the following described property:

A portion of Lots 6 & 8, Block 3, Butterfield Trail Industrial Park, Unit One, El Paso International Airport Tracts, City of El Paso, El Paso County, Texas, commonly known as 19 Founders, El Paso, Texas, ("Property");

**WHEREAS**, Assignor has requested the Lessor's approval and consent to an assignment of the Lease to Prent Corporation, a Wisconsin corporation.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.     **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to Prent Corporation ("Assignee"), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under the terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.

Assignee does hereby assume and agrees to be liable to pay any and all sums owing or becoming due Lessor under the terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.

2.     **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.
3.     **RELEASE.** Assignor is hereby released and discharged by Lessor from all rights, privileges, responsibilities and obligations under the Lease first arising and accruing from and after the effective date of the assignment of the Lease and Lessor and Assignee each hereby acknowledges that, as of the effective date of the assignment, Assignee enjoys all such rights and privileges and is responsible for satisfying all such obligations the same as if the Lease had originally been executed between Lessor and Assignee.

4. **SECURITY DEPOSIT.** Prior to the commencement of this Lease, Assignee shall tender to Lessor an irrevocable letter of credit, or other surety acceptable to the Director ("Security Deposit") in an amount equal to three (3) months of Rent to guarantee the faithful performance of Assignee of its obligations under this Lease and the payment of all Rent due hereunder. Assignee shall be obligated to maintain such Security Deposit in effect until the expiration of eighteen (18) consecutive months from the Effective Date of this Lease during which Assignee commits no Event of Default under this Lease. Such Security Deposit shall be in such form as shall be acceptable to Lessor in its reasonable discretion. After expiration of such eighteen (18) month period and if no Event of Default by Assignee has occurred, Lessor shall return the Security Deposit to Assignee. Lessor's rights under this Section shall be in addition to all other rights and remedies provided to Lessor under this Agreement.

5. **RATIFICATION OF LEASE.** Except as expressly set forth herein, no provision of this Approval alters or modifies any of the terms and conditions of the Lease, and all other terms and conditions of the Lease shall remain in full force and effect.

6. **ADDRESS FOR NOTICE.** Notices to Assignee and Assignor shall be sufficient if sent by certified mail, postage prepaid, addressed to:

ASSIGNOR: SNRA Commodities, Inc.  
6320 La Posta Drive  
El Paso, Texas 79912  
Attn: Sam Digregorio

ASSIGNEE: Prent Corporation  
2225 Kennedy Road  
P.O. Box 471  
Janesville, WI 53547-0471  
Attn: Mark Rothlisberger

7. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignee and Assignor represent and warrant that they have the legal authority to bind the Assignee and Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.

8. **NON-WAIVER.** The Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.

9. **EFFECTIVE DATE.** The Effective Date of this Lessor's Approval of Assignment will be the date this document is approved by the El Paso City Council.

10. **COUNTERPARTS.** This Lessor's Approval of Assignment may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, and all of which shall constitute one and the same instrument as if all parties had signed the same signature page.

*(Signatures Begin on the Following Page)*

APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2022.

LESSOR: CITY OF EL PASO

\_\_\_\_\_  
Tomás González  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Leslie B. Jean-Pierre  
Assistant City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

#### LESSOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS    )  
  )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2022, by Tomás González as **City Manager** of the **City of El Paso, Texas** (Lessor).

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_

*(Signatures Continue on the Following Page)*

ASSIGNOR: SNRA COMMODITIES, INC.

By: [Signature]  
 Print Name: Sam DiGregorio  
 Title: President

ASSIGNOR'S ACKNOWLEDGEMENT

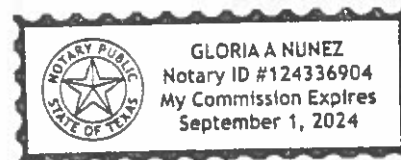
THE STATE OF Texas  
 COUNTY OF El Paso

This instrument was acknowledged before me on this 16<sup>th</sup> day of August, 2022,  
 by Sam DiGregorio President of \_\_\_\_\_,  
 on behalf of said corporation (Assignor).

My Commission Expires:  
01/1/2024

[Signature]  
 Notary Public, State of Texas

(Signatures Continue on the Following Page)





ASSIGNEE: PRENT CORPORATION,  
a Wisconsin corporation

By: [Signature]  
Print Name: Joseph Prent  
Title: President

ASSIGNEE'S ACKNOWLEDGEMENT

THE STATE OF Wisconsin  
COUNTY OF Rock

This instrument was acknowledged before me on this day of August 15 2022, by  
Joseph Prent, President of Prent Corporation  
on behalf of said Corporation (Assignee).

[Signature]  
Notary Public, State of Wisconsin

My Commission Expires:

October 30, 2024



PREPARED FOR: El Paso International Airport  
 Portion of Lots 6 and 8, Block 3,  
 Butterfield Trail Industrial Park Unit One, Replat "A",  
 City of El Paso, El Paso County, Texas

#### PROPERTY DESCRIPTION

Description of a parcel of land being a portion of Lots 6 and 8, Block 3, Butterfield Trail Industrial Park Unit One, Replat "A", City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

From a point, said point being the centerline intersection of Founders Boulevard and Zane Grey Street, thence North  $88^{\circ} 54' 00''$  East along the centerline of Founders Boulevard a distance of 305.68 feet, thence North  $01^{\circ} 06' 00''$  West a distance of 60.00 feet to a point lying on the north right-of-way line of Founders Boulevard; thence, along said right-of-way line, 160.46 feet along the arc of a curve to the left, whose radius is 1127.10 feet, whose interior angle is  $08^{\circ} 09' 24''$ , and whose chord bears North  $84^{\circ} 49' 18''$  East a distance of 160.32 feet to THE POINT OF BEGINNING;

Thence North  $00^{\circ} 52' 28''$  West a distance of 417.52 feet;

Thence North  $88^{\circ} 53' 24''$  East a distance of 340.13 feet;

Thence South  $45^{\circ} 29' 13''$  East a distance of 27.56 feet;

Thence South  $01^{\circ} 16' 48''$  East a distance of 294.14 feet to a point lying on the north right-of-way line of Founders Boulevard;

Thence, continuing along said right-of-way line, South  $69^{\circ} 46' 25''$  West a distance of 161.51 feet;

Thence, continuing along said right-of-way line, 215.79 feet along the arc of a curve to the right, whose radius is 1127.10 feet, whose interior angle is  $10^{\circ} 58' 10''$ , and whose chord bears South  $75^{\circ} 15' 30''$  West a distance of 215.46 feet to the POINT OF BEGINNING and containing 134,084.269 square feet, or 3.078 acres of land, more or less, subject to all easements of record.



Ramon E. Lara, P.E.  
 CREMANS, INC.

Revised: April 19, 1983





Legislation Text

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File #: 22-1101, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 3**

Airport, Sam Rodriguez, (915) 212-7301

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the City Manager be authorized to sign a Fourth Amendment to a Fuel Site Lease Agreement between the City of El Paso ("Lessor") and Southwest Airlines Co. ("Lessee") for approximately 42,640 square feet of Airportowned property used for fuel storage and a 1,000 square foot maintenance facility located at 7619 Boeing Dr., El Paso Texas.

Annual Rental Fees: 42,640 SF x \$0.60 per SF per annum = \$25,584.00. No rental adjustment is due at this time. This Fourth Amendment adds a one-year extension to the term of the lease, which would then expire on August 31, 2023.

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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON:** Samuel Rodriguez, P.E., Aviation Director (915) 212-7301

**DISTRICT(S) AFFECTED:** 3

**STRATEGIC GOAL 1:** Create an Environment Conducive to Strong, Sustainable Economic Development

**SUBGOAL:** N/A

**SUBJECT:**

That the City Manager be authorized to sign a Fourth Amendment to a Fuel Site Lease Agreement between the City of El Paso ("Lessor") and Southwest Airlines Co. ("Lessee") for approximately 42,640 square feet of Airport-owned property used for fuel storage and a 1,000 square foot maintenance facility located at 7619 Boeing Dr., El Paso Texas.

Annual Rental Fees: 44,698 SF x \$0.60 per SF per annum = \$25,584.00. No rental adjustment is due at this time. This Fourth Amendment adds a one-year extension to the term of the lease, which would then expire on August 31, 2023.

**BACKGROUND / DISCUSSION:**

The Department of Aviation is requesting approval of this item to add a one-year option to the current Fuel Site Lease. The addition of this extension will allow for the continued fueling operation that supports not only Southwest Airlines, but also the various commercial passenger and cargo airlines that share in this fueling operation at the El Paso International Airport (ELP). Department of Aviation management has been working with the airlines operating at ELP over the past two years to develop a new fuel site lease and find that additional time to complete this negotiation is needed. This amendment will set a new termination date of no later than August 31, 2023.

**PRIOR COUNCIL ACTION:**

- August 31, 2020 – Approval of Third Amendment to the Lease to add a fifth extension of two years through August 31, 2022.
- July 9, 2019 – Approval of Second Amendment to the Lease to add a fourth extension of thirteen months through August 31, 2022.
- June 1, 2001 – Approval of First Amendment to the Lease added 24,600 square feet of land to the premises.
- August 1, 1999 – Approval of Fuel Site Lease for 18,040 square feet of land through July 31, 2019 plus three five-year extension options, all which were exercised.

**AMOUNT AND SOURCE OF FUNDING:**

N/A: This is a revenue-generating item.

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES   NO

**PRIMARY DEPARTMENT:** Aviation

**SECONDARY DEPARTMENT:** N/A

**DEPARTMENT HEAD:** \_\_\_\_\_

  
Samuel Rodriguez, P.E., Director of Aviation

## RESOLUTION

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

That the City Manager be authorized to sign a Fourth Amendment to the Fuel Site Lease by and between the City of El Paso and Southwest Airlines Co., to add a sixth extension for a one-year period to the existing Fuel Site Lease at 7619 Boeing Drive, El Paso, Texas.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

### THE CITY OF EL PASO

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

### ATTEST:

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

### APPROVED AS TO FORM:

\_\_\_\_\_  
Leslie B. Jean-Pierre  
Assistant City Attorney

### APPROVED AS TO CONTENT:

\_\_\_\_\_  
Samuel Rodriguez, P. E.  
Director of Aviation

STATE OF TEXAS            )  
                                      )  
COUNTY OF EL PASO        )            **FOURTH AMENDMENT TO**  
                                      )            **FUEL SITE LEASE**

This Fourth Amendment to the Fuel Site Lease ("**Fourth Amendment**") is by and between the City of El Paso ("**Lessor**") and Southwest Airlines Co. ("**Lessee**"), a Texas Corporation. For purposes of this Fourth Amendment, all defined terms appear in boldface print when first defined.

**WHEREAS**, the Lessor and Lessee entered into a Fuel Site Lease ("**Lease**"), with an Effective Date of August 1, 1999, for that certain property located at 7619 Boeing Dr., El Paso, Texas ("**Leased Premises**"), as described in detail in the Lease; and

**WHEREAS**, the Lessor and Lessee entered into a First Amendment to the Lease, with an Effective Date of June 1, 2001, to add 24,600 square feet to the Leased Premises; and

**WHEREAS**, pursuant to Section 4.02 of the Lease, the parties timely exercised all three of their five-year renewal periods to extend the Lease through July 31, 2019; and

**WHEREAS**, the Lessor and Lessee entered into a Second Amendment to the Lease, with an Effective Date of July 9, 2019, to add a fourth extension, for a thirteen-month period in order to negotiate a new Lease; and

**WHEREAS**, the Lessor and Lessee entered into a Third Amendment to the Lease with an effective date of August 31, 2020 (collectively referenced as the "**SWA Lease**") to add a fifth extension consisting of two years that may be terminated at quarterly increments in order to negotiate a new Lease; and

**WHEREAS**, the parties are still reviewing and negotiating a new Lease, and anticipate requiring a sixth extension for up to a one year period in order to fully negotiate the new Lease without having a lapse in the contractual relationship; and

**WHEREAS**, the parties agree to enter into this Fourth Amendment to add a sixth extension consisting of one year that may be terminated at quarterly increments.

**NOW, THEREFORE**, the parties agree as follows:

**Section 1.     ARTICLE IV "TERM OF LEASEHOLD", Section 4.02 Options to Extend** is amended to add the following language:

In the event Lessor and Lessee require additional time to negotiate a new lease and subject to the provisions of Article X of the Lease (except that to the extent of a conflict between this paragraph and Section 10.01 of the Lease, this paragraph controls), the parties have a mutual option to extend this Lease for a sixth option period of up to one year, with the parties being able to terminate the Lease on a

quarterly basis during the sixth option, after a party wishing to terminate this option ("Moving Party") provides written notice ("Option Termination Notice") no less than thirty (30) days prior to the end of the then quarter of their desire to terminate the option to the other party ("Nonmoving Party") on the 1<sup>st</sup> day of the following quarter, and within ten (10) business days of receipt of the Option Termination Notice, the Nonmoving Party approves the termination, in writing provided to the Moving Party. If the Nonmoving Party approves the termination, the Lease shall terminate at the end of the quarter in which the Option Termination Notice was provided.

If the Nonmoving Party rejects the termination, the sixth option shall continue. As the sixth option shall begin September 1, 2022, the quarters shall run through the end of November, February, May, and August, during the one-year period. In the case of this sixth option period, the parties' signature on this Fourth Amendment shall indicate their agreement to exercise said sixth option, without the need for further notification by either party. In the event the sixth option period is exercised, the Lease shall be extended on the same terms and conditions, with no adjustment to annual rental for the sixth option period. The City Council of the City of El Paso authorizes the City Manager or designee, the authority to agree to the termination of the Lease solely and exclusively as described in this paragraph, without the need for further City Council approval, as either the Moving Party or the Nonmoving Party, upon prior review and approval as to form by the City Attorney prior to execution.

The parties hereto acknowledge that Lessee and other Air Carriers operating at the Airport are in the process of forming a consortium, which is currently negotiating a new lease with Lessor for the Leased Premises (the "New Fuel Site Lease"). Notwithstanding anything to the contrary in this Lease, upon commencement of the New Fuel Site Lease, this Lease shall immediately terminate, and the parties hereto agree to execute any documents needed to evidence such termination.

**Section 2.** Except as amended in this Fourth Amendment, the terms of the Lease, between the Lessor and Lessee, as amended, shall remain in full force and effect.

**Section 3.** This Fourth Amendment shall be effective upon the date it is approved by the El Paso City Council.

*(City Signatures on the Following Page)*

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Fourth Amendment as of the date it is signed by the Lessor.

**CITY OF EL PASO:**

\_\_\_\_\_  
Tomás González, City Manager

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Leslie B. Jean-Pierre  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

**ACKNOWLEDGMENT**

STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2022, by Tomás González, as City Manager of the City of El Paso, Texas, on behalf of the City of El Paso, Texas.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

*(Lessee Signature Page Follows)*



LESSEE(S):

Southwest Airlines Co.

By: \_\_\_\_\_

Its: \_\_\_\_\_

Stephen F. SisnerosVice President-Airport Affairs

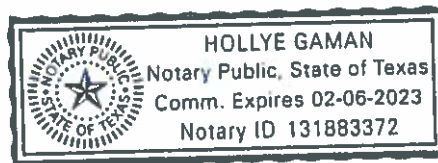
## ACKNOWLEDGMENT

STATE OF Texas §COUNTY OF Dallas §

This instrument was acknowledged before me on the 16<sup>th</sup> day of August, 2022, by Stephen F. Sisneros, VP Airport Affairs Southwest Airlines Co., on behalf of said entity.

Hollye Gaman  
Notary Public, State of Texas

My Commission Expires:

2-6-2023



Legislation Text

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File #: 22-1102, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 3**

Airport, Sam Rodriguez, (915) 212-7301

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the City Manager be authorized to sign a Boeing Business District Lease Agreement by and between the City of El Paso ("Lessor") and Chenausky Property and Investments, LLC ("Lessee"), for an general aviation ground lease comprising of approximately 0.689 acres, or 30,013 square feet municipally known and numbered as 7309 Boeing Drive El Paso, Texas.

The forty (40) year initial term begins on August 30, 2022 ("Effective Date") and ends on August 29, 2062. The annual rental fee is \$13,199.72 or \$1,099.98 per month. There is one option to extend the lease for an additional ten (10) years that can be exercised with a 180-day notice to the Lessor.

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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON:** Samuel Rodriguez, P.E. Aviation Director (915) 212-7301

**DISTRICT(S) AFFECTED:** 3

**STRATEGIC GOAL 1:** Create an Environment Conducive to Strong, Sustainable Economic Development

**SUBGOAL:** N/A

**SUBJECT:**

That the City Manager be authorized to sign a Boeing Business District Lease Agreement by and between the City of El Paso ("Lessor") and Chenausky Property and Investments, LLC ("Lessee"), for an general aviation ground lease comprising of approximately 0.689 acres, or 30,013 square feet municipally known and numbered as 7309 Boeing Drive El Paso, Texas.

The forty (40) year initial term begins on August 30, 2022 ("Effective Date") and ends on August 29, 2062. The annual rental fee is \$13,199.72 or \$1,099.98 per month. There is one option to extend the lease for an additional ten (10) years that can be exercised with a 180-day notice to the Lessor.

**BACKGROUND / DISCUSSION:**

The Lessee currently leases the land from the Airport for an airplane maintenance hangar, which is used to provide aircraft maintenance under the business name "El Paso Aero." In addition to general aviation maintenance, the Lessee is used on an on-call basis by various airlines for maintenance services. If the 10-year option to extend the lease is exercised, the expiration date will be will be on August 30, 2072.

**PRIOR COUNCIL ACTION:**

- June 1, 1992 – Lessor and Lessee entered into General Aviation Ground Lease Agreement through May 31, 2022.
- July 24, 2018 – Previous Lessee Blue Falcon Corp. Assignment to the current Lessee was approved.

**AMOUNT AND SOURCE OF FUNDING:**

N/A: This is a revenue-generating item.

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES   NO

**PRIMARY DEPARTMENT:** Aviation

**SECONDARY DEPARTMENT:** N/A

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

**DEPARTMENT HEAD:**

Samuel Rodriguez, P.E., Director of Aviation

## RESOLUTION

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

That the City Manager be authorized to sign a Southern Industrial Site Ground Lease Agreement by and between the City of El Paso ("Lessor") and Chenausk Properties & Investments, LLC, a Texas limited liability company ("Lessee") regarding the following described property:

A portion of Lot 21 and the east 1/2 of Lot 20, Block 4, El Paso International Airport Tracts Unit 2, an addition to the City of El Paso, El Paso County, Texas, municipally known and numbered as 7309 Boeing, El Paso, Texas 79925.

with a 40 year initial term and one option to extend for ten years.

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2022.

### CITY OF EL PASO

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

### ATTEST:

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

### APPROVED AS TO FORM:

\_\_\_\_\_  
Leslie B. Jean-Pierre  
Assistant City Attorney

### APPROVED AS TO CONTENT:

\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

#### RESOLUTION

22-1003-1270/PL#1174034.2/Chenausk Properties & Investments, LLC/ Lease – 7309 Boeing Dr/lbj

**BOEING BUSINESS DISTRICT LEASE**

El Paso International Airport  
El Paso, Texas

**CHENAUSKY PROPERTIES & INVESTMENTS, LLC**  
Lessee

\_\_\_\_\_, **2022**  
Effective Date

**BOEING BUSINESS DISTRICT LEASE  
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## ATTACHMENTS

**EXHIBIT "A" - Property Description & Metes and Bounds of Premises**

**EXHIBIT "B" – Declaration of Restrictions and Covenants**



## **BOEING BUSINESS DISTRICT LEASE**

**THIS LEASE AGREEMENT** ("Lease") is entered into of \_\_\_\_\_, 2022, by and between the City of El Paso ("Lessor") and **CHENAUSKY PROPERTIES & INVESTMENTS, LLC** ("Lessee").

**WHEREAS**, Lessor owns and operates El Paso International Airport, located in the County of El Paso, State of Texas, ("Airport"), said Airport being managed by the Director of Aviation, as amended from time to time in terms of actual title ("Director"); and

**WHEREAS**, Lessor deems it advantageous to itself and to its operation of the Airport to lease unto Lessee the parcel of land described herein, together with certain privileges, rights, uses and interests therein, as hereinafter set out; and

**WHEREAS**, Lessee proposes to lease on a net basis from Lessor certain ground area and to avail itself of certain privileges, rights and uses pertaining thereto; and

**WHEREAS**, Lessee has indicated a willingness and ability to properly keep, maintain and improve said ground in accordance with standards established by Lessor;

**NOW THEREFORE**, Lessor and Lessee agree as follows:

### **ARTICLE I - PREMISES AND PRIVILEGES**

#### **1.01 Description of Premises Demised.**

Subject to and on the terms, conditions, covenants, agreements and undertakings hereinafter set forth, Lessor does hereby demise and lease to Lessee and Lessee does hereby lease from Lessor the following described real property located in El Paso County, Texas:

Lot 21 and the east 1/2 of Lot 20, Block 4, El Paso International Airport Tracts, Unit 2, City of El Paso, El Paso County, Texas, municipally known and numbered as 7309 Boeing Drive, El Paso, Texas and more fully described in Exhibit "A" attached hereto and incorporated herein by reference (the "Premises").

#### **1.02 Right to Construct.**

Lessee shall have the right and privilege to construct, maintain, and remove improvements upon the Premises subject to the terms, covenants, and conditions herein contained.

#### **1.03 Restriction of Privileges, Uses and Rights.**

The rights and privileges granted Lessee hereunder are subject and expressly limited to the terms and conditions of the Declaration of Restrictions and Covenants attached hereto as Exhibit "B", and fully incorporated herein by reference (the "Declaration").

#### **1.04 Conditions of Granting Lease.**

The granting of this Lease and its acceptance by Lessee is conditioned upon the following covenants:

- A. That no functional alteration of the Premises shown on Exhibit "A" or functional change in the uses of such Premises, except as reflected in the Declaration, shall be made without the prior written consent of Lessor.
- B. That the right to use the Premises shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Texas; the rules and regulations promulgated by their authority and all reasonable and applicable rules, regulations and ordinances of Lessor now in force or hereafter prescribed or promulgated by charter authority or by law and which rules, regulations and/or ordinances apply equally to all property within the Boeing Business District.

## **ARTICLE II - TERM OF LEASEHOLD**

### **2.01 Term.**

The "Term" of this Lease will be the Initial Term and any properly exercised Option Period, as provided below. This Lease shall be for an initial term of forty (40) years ("Initial Term"), commencing on \_\_\_\_\_, 2022 ("Effective Date").

### **2.02 Option to Extend.**

If the Lessee is not in default of any terms of this Lease, Lessee shall have the option to extend this Lease ("Option Period") for one (1) additional term of ten (10) years by notifying Lessor in writing of Lessee's election at least one hundred eighty (180) days prior to the expiration of the Initial Term.

### **2.03 Holding Over.**

It is agreed and understood that any holding over by Lessee of the Premises at the expiration or cancellation of this Lease shall operate and be construed as a tenancy from month to month at a rent of one and one-half times the current monthly rent, unless the hold over is caused by the City staff not placing a new agreement with Lessee regarding the Premises at the end of the term of the present Agreement on the City Council Agenda on a timely basis in which case the monthly rental rate in effect prior to the hold over shall continue until the new agreement is executed. Lessee shall be liable to Lessor for all loss or damage on account of any holding over against Lessor's will after the expiration or cancellation of this Lease, whether such loss or damage may be contemplated at this time or not. No receipt or acceptance of money by Lessor from Lessee after the expiration or cancellation of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Lease, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

### **2.04 National Emergency.**

In the event the rights and privileges hereunder are suspended by reason of war or other national emergency, the term of this Lease shall be extended by the amount of the period of time of such suspension.

### **ARTICLE III – RENT**

#### **3.01 Rent.**

For the purpose of computing the rent payments, Lessor and Lessee agree that the Premises comprise 0.689 acres, or 30.013 square feet of land. The initial Rent for the Premises will be calculated on the basis of 30.013 square feet at \$0.4398 per square foot per annum. The annual Rent for the first five (5) years of the Initial Term shall be \$13,199.72, or \$1,099.98 monthly. Readjustment of Rent is addressed in Section 3.04 below.

#### **3.02 Commencement of Rent and Time of Payment.**

Payment of Rent by Lessee to Lessor as aforesaid shall commence on the Effective Date of this Lease. The Rent shall be paid in twelve (12) equal monthly installments. The Rent payments shall be paid in advance on or before the first day of each and every month during the term of this Lease.

#### **3.03 Security Deposit.**

As Tenant is a pre-existing tenant of Landlord and has met its security deposit obligations under the predecessor to this Lease, no security deposit shall be necessary under this Lease.

#### **3.04 Readjustment of Rent.**

For the purpose of computing adjustments to rental payments, Lessor and Lessee agree as follows, with each adjustment effective as of the appropriate anniversary date, regardless of the date the actual adjustment is made:

- A. Rent shall be adjusted on the first of the month following each fifth (5<sup>th</sup>) anniversary of the Effective Date of this Lease thereafter during the Initial Term and any Lessee's Option Period. Lessor and Lessee agree that, except as provided for in paragraph B to this Section, percentage increases in the Consumer Price Index for all Urban Consumers (CPI-U) shall govern the rent readjustment for these anniversary dates. The parties further agree that for the purposes of computing such percentage increase during the Initial Term, the Base Year CPI-U shall be established as that rate in place ninety (90) calendar days prior to the Effective Date of this Lease. Rent shall be adjusted pursuant to the percentage increase in the CPI-U from the Base Year CPI-U to the rate in place ninety (90) days prior to the applicable date of readjustment (i.e. the fifth (5<sup>th</sup>) anniversary date of the Effective Date of this Lease).

In the event the CPI-U is not yet published or is otherwise unavailable for the month in which this Lease is effective, the price index used will be that price index for the closest preceding month for which the price index is available. In the event that the CPI-U is no longer published by the Bureau of Labor Statistics, Department of Labor at a time when an adjustment is to be made, Lessor and Lessee agree to use the consumer price index published by the Department of Labor that replaces the CPI-U or, if no replacement is available, but a reasonably comparable consumer price index exists, to use the method set forth in paragraph B below to adjust rent.

All readjustments shall be effective as of the fifth (5<sup>th</sup>) anniversary date, without regard to the date the actual adjustment is made; provided, however, that in no event shall the readjusted Rent be less than the rate in place immediately prior to such readjustment nor more than twenty percent (20%) more than the Rent established at the beginning of the immediately preceding five-year period.

- B. At the beginning of the forty-first year of Lessee's tenancy, the Rent shall be adjusted to a rate equal to eight percent (8%) of the then fair market value of the Premises, disregarding the value of any Lessee-owned improvements located on the Premises, established as set forth in this Lease. In no event however, shall the Rent for the Option Period be less than the Rent established at the beginning of the immediately preceding five (5) year period. The Rent shall become effective as of the Option Period, regardless of the date the actual adjustment is made.
- C. **Appraisal.** The fair market value of an identified parcel ("Parcel") shall be determined by either a current appraisal (less than three years old) of a similar property ("Current Appraisal") or a new appraisal of the Parcel. It shall be at the discretion of Lessor as to whether a Current Appraisal or a new appraisal shall be used. In the event a new appraisal is preferred, Lessor will select an appraiser from its list of qualified appraisers to establish the fair market value of the Parcel, disregarding the value of any Lessee-owned improvements located on the Parcel. This appraisal or the Current Appraisal shall be known as the "First Appraisal."

Upon completion of the First Appraisal, Lessor shall notify Lessee in writing of the rental rate, which shall be calculated as described in Section 3.04B. If Lessee agrees with the First Appraisal, or does not respond to Lessor in writing within fifteen (15) calendar days after receipt of the written notice as required herein, or it does not produce a Second Appraisal (as defined below) within 30 calendar days from Lessee's notice to proceed with said Second Appraisal, the First Appraisal and its resulting rent shall be deemed to be accepted by Lessee.

If Lessee disagrees with the rental rate resulting from the First Appraisal, Lessee, within fifteen (15) calendar days after receipt of said notice, shall notify Lessor in writing of Lessee's request for a qualified second appraisal ("Second Appraisal"). The second appraiser must be the next appraiser appearing on Lessor's list of qualified appraisers. The cost of the Second Appraisal shall be paid by the Lessee. The rental rate resulting from the Second Appraisal shall be calculated as described in Section 3.04B.

After the Lessee provides Lessor with the Second Appraisal, both parties have a 15-business day review period to consider same. If, by the 15<sup>th</sup> day, either the Lessor or Lessee disagrees with the rental rate resulting from the Second Appraisal, and a third appraisal ("Third Appraisal") is necessary,

the Lessor and Lessee shall agree to the next appraiser appearing on the Lessor's list of qualified appraisers. The cost of the Third Appraisal shall be paid equally by the Lessor and Lessee, and the Third Appraisal shall be the final determinant of the rental rate. There shall be no further appraisals beyond the Third Appraisal, regardless of whether either the Lessor or Lessee disagrees with the rental rate resulting from the Third Appraisal.

Lessee shall pay the Rent as determined by the First Appraisal under protest until there is a final determination of the fair market value for the Parcel for which the Rent is determined. Should the final determination of the fair market value of the Parcel be a lower rate than the fair market value of the Parcel determined by the First Appraisal, Lessee's account will be credited by Lessor accordingly.

### **3.05 Unpaid Rent, Fees and Charges.**

Any installment of Rent, fees, or other charges or monies accruing under any provisions of this Lease that are not received by Lessor by the 20th day of the month in which payment is due, shall bear interest from the date such Rent or other amount was due at the lesser of the rate of eighteen percent (18%) per year or the then maximum nonusurious rate under applicable law, (the lesser of said amounts being herein referred to as the "Maximum Rate.") In the event the late charge is ever deemed to be "interest" the amount of interest on past due amounts shall be automatically reduced so that the combination of said late charge and the interest on past due amounts, if any, does not exceed the Maximum Rate. Any amount collected which exceeds the Maximum Rate will be deemed credited to other amounts owed by Lessee to Lessor under this Lease, and any remaining excess after such credit shall be refunded to Lessee. It is the intent of both Lessor and Lessee to at all times comply with the applicable law regarding the maximum nonusurious amount or rate of interest which may be contracted for, charged, taken, reserved or received by Lessor.

### **3.06 Place of Payment.**

All rent payments provided herein shall be paid to Lessor at the following address:

Accounting Division  
El Paso International Airport  
P.O. Box 971278  
El Paso, Texas 79997-1278

In lieu of payments being mailed to the above address, electronic payments may be made via any electronic payment system acceptable to Landlord.

## **ARTICLE IV - OBLIGATIONS OF LESSOR**

### **4.01 Quiet Enjoyment.**

Lessor agrees that upon Lessee's paying rent and performing all of the covenants, conditions, and agreements set forth in this Lease, Lessee shall and may peaceably and quietly have, hold, and enjoy the Premises. Lessor has no knowledge, nor any reason to believe, that there is any legal impediment to its full right to enter into this Lease and perform its obligations hereunder.

## **ARTICLE V - OBLIGATIONS OF LESSEE**

### **5.01 Net Lease.**

This Lease shall be without cost to Lessor except for Lessor's obligations specifically set forth in Article IV above and elsewhere in this Lease Agreement. Lessee shall:

- A. Keep and maintain the Premises and improvements located thereon in a good state of repair at all times;
- B. Pay any and all taxes assessed against the Premises, improvements located on the Premises, Lessee's interest in the Premises and improvements, and all of Lessee's personal property located on the Premises; and
- C. Pay all casualty, bond, and liability insurance premiums required in accordance with the terms of this Lease.

### **5.02 Condition of Premises.**

Lessee accepts the Premises in their present condition and agrees that the Premises are suitable for Lessee's business, activities, and operations proposed to be conducted thereon relying on its own inspection and judgment. Lessor has not made any warranties expressed or implied with regard to the condition of the Premises or improvements or their suitability for a particular use. Lessee accepts the Premises "As Is", with all faults, relying on Lessee's own inspection and judgment and not in reliance on any representations of Lessor. Lessor shall assume no responsibility as to the condition of the Premises and shall not assume responsibility for maintenance, upkeep, or repair necessary to keep the Premises in a safe and serviceable condition.

### **5.03 Compliance with Laws.**

Lessee, at Lessee's expense, agrees that it will construct, operate and maintain improvements on the Premises in accordance with the Declaration and in accordance with all 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 Lessor or Lessee, with respect to the use, occupation or alteration of the Premises and any improvements thereon. In addition, Lessee agrees, if required, it will remove all improvements, in accordance with all 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 Lessor or Lessee, with respect to the use, occupation or alteration of the Premises.

Lessee, at Lessee's expense, specifically agrees to make or cause to be made all such alterations to the Premises, and any improvements thereon, including, without limiting the generality of the requirements of this sentence, removing such barriers and providing such alternative services, as shall be required by the Americans with Disabilities Act of 1990 and any other 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, which relate to the use or occupation of the Premises and any improvements thereon by disabled persons ("Disabilities Laws").

Lessee shall, at Lessee's expense, comply with all present and hereinafter enacted Environmental Laws, and any amendments thereto, affecting Lessee's use, operation, occupation or alteration of the Premises including any improvements thereon.

A. Definitions.

- (1) "Environmental Laws" means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including sub-strata land.
- (2) "Hazardous Material" shall mean all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law and all petroleum products, such as gasoline, kerosene, diesel fuel, and the like.
- (3) "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment.

B. Compliance.

- (1) Lessee shall not cause or permit any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises, or transported to and from the Premises, by Lessee, its sublessees, agents, employees, contractors, invitees, licensees, or a third party in violation of any Environmental Law. **Lessee shall indemnify, defend and hold harmless Lessor, its successors and assigns, its officers, directors, employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or**

judicial entity which are incurred or assessed as a result (whether in part or in whole) of any activity or operation on or discharge from the Premises or any improvements thereon caused by the act or omission of Lessee, its sublessees, agents, employees, contractors, licensees or invitees. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground or surface water to the extent required under Environmental Laws. Lessee's obligations and liabilities under this paragraph shall continue so long as Lessor bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises or any improvements thereon. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work to the extent required by any federal, state or local governmental agency or political subdivision having authority to enforce Environmental Laws because of Hazardous Material located on the Premises or any improvements thereon, or present in the soil or ground water on, under or about the Premises. The parties agree that Lessor's right to enforce Lessee's promise to indemnify is not an adequate remedy at law for Lessee's violation of any provision of this Section. Lessor shall also have all other rights and remedies provided by law or otherwise provided in this Lease.

- (2) Without limiting the foregoing, if the presence of any Hazardous Material on, under or about the Premises or in any improvements thereon or permitted by Lessee results in any contamination of the Premises or any improvements thereon, or any surrounding property, Lessee shall promptly take all actions at its sole cost and expense as are necessary to return the Premises or any improvements thereon or the surrounding property to the condition existing prior to the introduction of any such Hazardous Material to the Premises or in any improvements thereon or the surrounding property; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Premises or on any improvements thereon or the surrounding property.
- (3) Lessee shall, at Lessee's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") under the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Premises or in any improvements thereon or on surrounding property to comply with applicable Environmental Laws, then Lessee shall, at Lessee's own cost and expense, prepare and submit the required plans and financial assurances, and carry



out the approved plans. At no cost or expense to Lessor, Lessee shall promptly provide all information requested by Lessor to determine the applicability of the Environmental Laws to the Premises to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to environmental contamination of the Premises or the improvements thereon or the surrounding property.

- (4) Lessee shall immediately notify Lessor promptly after Lessee becomes aware of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or Lessee's operation on the Premises, and (b) any change in Lessee's operation on the Premises that will change or has the potential to change Lessee's or Lessor's obligations or liabilities under the Environmental Laws.
- (5) Lessee shall insert the provisions of this Section 5.03 in any lease, agreement, license, or contract by which it grants a right or privilege to any person, firm or corporation under this Lease, but only with respect to those leases, agreements, licenses or contracts executed after the Effective Date of this Lease.

C. Fuel Storage Tanks. Fuel storage tanks are not allowed on the Premises.

Lessee's failure or the failure of its agents, employees, contractors, licensees, invitees, or a third party to comply with any of the requirements and obligations of this section shall constitute a material default of this Lease and shall permit Lessor to pursue the remedies as set forth in Article X hereinbelow, in addition to all other rights and remedies provided by law or otherwise provided in the Lease, to which Lessor may resort cumulatively.

D. Reporting.

- (1) At any time that Lessee submits any filing or response pertaining to its property, operations, or presence on the Airport with any governmental entity (other than the Internal Revenue Service) by way of example but not in limitation, the FAA, the EPA or the TCEQ, or any successor agencies, Lessee shall provide duplicate copies to Lessor of such filing(s) or response(s) with any related documents at the time same are made.
- (2) Upon expiration, termination or cessation of this Lease for any reason, Lessee shall provide to Lessor a Phase I Environmental Site Assessment meeting ASTM standards of the Premises ("Lessee's Report"); and if, in the opinion of Lessor, if Lessee's Report indicates that the Premises is in violation of applicable Environmental Laws, then Lessee shall perform work as is necessary to cause the Premises to be in compliance with applicable Environmental Laws.

#### **5.04 Minimum Improvement Standard.**

Lessee covenants and agrees that facilities constructed on the Premises, exclusive of paving and landscaping, shall cover a minimum of twenty percent (20%) of the Premises' land area, and a maximum of fifty percent (50%) of the Premises' land area. In the event such improvements are partially or totally destroyed by fire or other casualty, Lessee shall have the absolute right to restore or rebuild such improvements to the same size as existed prior to the casualty.

#### **5.05 Lessor's Approval of Plans.**

Lessor's approval of any plans, specifications and working drawings for Lessee's construction or alterations of improvements or any plans, specifications and working drawings for Lessee's removal of improvements shall create no responsibility or liability on the part of Lessor for their completeness, design sufficiency or compliance with all laws, rules and regulations of federal, state, county and municipal authorities. It is specifically understood that the Department of Aviation is only one of numerous departments of the Lessor and that, in addition to obtaining approval of the Director, Lessee shall be required to obtain the approval of other City departments. Upon approval by such agencies and the issuance of permits for the commencement of construction, Lessee shall deliver to the Director one (1) complete set of the Final Plans as approved by the governmental agencies exercising jurisdiction thereover, and copies of all issued permits. Upon completion of construction, Lessee shall deliver to Director a complete set of record (as-built) drawings of the construction signed and sealed by a professional engineer or architect licensed in Texas, and a copy of the issued Certificate of Occupancy for the Premises.

#### **5.06 Landscaping and Maintenance of Improvements.**

Lessee shall landscape the Premises and keep the improvements on the Premises in a good state of repair and condition and in a presentable condition comparable in appearance and character to similar improvements in Boeing Business District. The exterior finish on the improvements shall be repainted and refinished as reasonably necessary to maintain the appearance of such improvements to a standard comparable to similar improvements in Boeing Business District. Notwithstanding anything to the contrary in the Declaration, Lessor agrees that attractive, low water usage landscaping is a desirable goal and agrees to consider and approve appropriate low water usage landscaping plans as a part of the architectural review process.

Lessor shall be the sole judge of the quality of maintenance and, upon written notice by Lessor to Lessee, Lessee shall be required to perform reasonable maintenance Lessor reasonably deems necessary in order to cause the exterior finish to be in a condition comparable to similar improvements in Boeing Business District. If said maintenance is not commenced by Lessee within forty-five (45) days after receipt of written notice, Lessor shall have the right to enter on the Premises and perform the necessary maintenance, the cost of which plus ten percent (10%) shall be borne by Lessee.

#### **5.07 Utilities.**

Lessee shall pay for all costs or charges for utility services furnished to Lessee during the term hereof. Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense.

**5.08 Trash, Garbage, and Other Refuse.**

Lessee shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of its use and occupancy of the Premises. Lessee shall provide and use suitable covered commercial type receptacles for all such garbage, trash and other refuse, and will maintain these receptacles, screened from view of adjoining properties or public streets in an attractive, safe, and sanitary manner. Piling of boxes, cartons, barrels or other similar items, in an unsightly or unsafe manner, on or about the Premises, shall not be permitted.

**5.09 Permitted Uses.**

Lessee will not enter into any business activity on the Premises other than those permitted in the Declaration.

**5.10 Penalties Assessed by Federal Agencies.**

Lessee understands and agrees that in the event any federal agency assesses a civil penalty against Lessor or the Airport for any violation, including but not limited to any security violation, as a result of or related to any act or failure to act on the part of Lessee, its sublessees, agents, employees contractors, licensees or invitees, Lessee shall reimburse Lessor in the amount of the civil penalty assessed. Failure to reimburse Lessor within thirty (30) calendar days of receipt of written notice shall constitute an event of default hereunder.

**ARTICLE VI -**  
**INSURANCE AND INDEMNIFICATION**

**6.01 Insurance.**

Prior to the execution of this Agreement, Lessee shall obtain, provide proof of, and shall maintain for the term of this Agreement, the types and amounts of insurance coverage listed below, in amounts as reasonably set from time to time by the Director, but not less than:

Comprehensive General Liability Insurance in amounts not less than One Million Dollars (\$1,000,000.00) for bodily injury to one person for each occurrence,

Two Million Dollars (\$2,000,000.00) for bodily injuries to more than one person arising out of each occurrence,

One Million Dollars (\$1,000,000.00) for Property Damage arising out of each occurrence, and

Three Million Dollars (\$3,000,000.00) for Comprehensive Pollution Damage arising out of each occurrence, which insurance shall cover, at a minimum, bodily injury, property damage, including natural resource damage, loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, removal, storage, disposal, and or use of the pollutant, and defense costs, including costs and expenses incurred in the investigation, defense, or settlement of claims,

or in amounts equal to the maximum liability for damages for municipalities for claims arising under governmental functions, provided for under the Texas Tort Claims Act, whichever is greater.

#### **6.02 Additional Insured.**

Lessor shall be named as an Additional Insured on all insurance policies either in the policy itself and reflected on the certificate of insurance or through an endorsement attached to the policy.

All policies shall provide either in the policy itself and reflected on the certificate of insurance or through an endorsement attached to the policy, that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the Lessor or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

Commercial General Liability and Property Damage coverage requirements may be satisfied through a combination of individual policy limits and umbrella coverage but the amounts under each type of coverage shall be subject to the final approval of the City's Risk Manager.

#### **6.03 Fire and Other Risks Insurance.**

Lessee, at its sole cost and expense, shall throughout the term of this Lease, keep or cause to be kept all improvements now or hereafter located upon the Premises insured for the mutual benefit of Lessor and Lessee against loss or damage by fire and against loss or damage by other risks embraced by "extended coverage" and against civil commotions, riots, vandalism and malicious mischief in an amount equal to the actual replacement cost of such improvements, including costs of replacing excavations and foundation, but without deduction for depreciation (hereinafter called "Full Insurable Value"). In the event a dispute arises as to the Full Insurable Value which cannot be resolved by agreement of the Parties, an appraisal of the Premises and improvements thereon shall be made by an appraiser selected by Lessee and reasonably acceptable to Lessor to determine the Full Insurable Value, as defined in this Section, and the resulting determination shall be conclusive between the parties for the purpose of this Section. Should the appraiser Lessee selected be unsatisfactory to Lessor, the carrier of the insurance then in force shall be requested to determine the Full Insurable Value as defined in this Section. The expense of this appraisal shall be borne by Lessee, unless the value claimed by Lessee is confirmed through such an appraisal, in which case the Lessor shall reimburse the Lessee for the cost of such appraisal.

#### **6.04 Payment and Performance Bonds.**

Prior to the commencement of any construction work on the Premises the total cost of which will exceed Fifty Thousand Dollars (\$50,000.00), Lessee, at its own cost and expense, shall cause to be made, executed, and delivered to Lessor two (2) separate bonds, as follows:

- A. Prior to the date of commencement of any construction, a contract surety bond in a sum equal to the full amount of the construction contract awarded.

Said bond shall guarantee the faithful performance of all necessary construction and completion of improvements in accordance with approved final plans and detailed specifications; and shall guarantee Lessor against any losses and liability, damages, expenses, claims and judgments caused by or resulting from any failure of Lessee to perform completely the work described as herein provided.

- B. Prior to the date of commencement of any construction, a payment bond with Lessee's contractor or contractors as principal in a sum equal to the full amount of the construction contract project.

Said bond shall guarantee payment of all wages for labor and services engaged and of all bills for materials, supplies, and equipment used in the performance of said construction project.

In accordance with Article 35.03.004 of the Texas Insurance Code, if a Performance or Payment bond is in an amount of excess of ten percent (10%) of the surety's capital and surplus, the Lessor will require, as a condition to accepting the bond(s), a written certification from the surety that the surety has reinsured the portion of the risk that exceeds ten percent (10%) of the surety's capital and surplus with one or more reinsurers who are duly authorized, accredited or trusted to do business in the State of Texas.

In lieu of the payment and performance bonds described in Paragraph A and B, above, Lessee may, at Lessee's option, provide Lessor with an irrevocable Letter of Credit, in a form acceptable to the Director in her/his reasonable discretion and approved by the City Attorney, in an amount equal to the full amount of the construction contract awarded. Such Letter of Credit shall be issued by a national banking association, shall provide for partial draws, and shall have an expiration date of at least ninety (90) days after the completion date provided in the construction contract. Such Letter of Credit shall be payable upon presentment accompanied by an affidavit by an authorized representative of Lessor indicating that the proceeds to be paid will be used by Lessor to either (i) pay sums due and owing pursuant to the construction contract awarded or (ii) complete construction of the improvement contemplated by the construction contract.

#### **6.05 Authorized Insurance and Surety Companies.**

All required policies of insurance and bonds shall be written by insurance and surety companies authorized to do business in the State of Texas and shall be written by companies approved by Lessor, such approval not to be unreasonably withheld. Certificates of insurance shall be delivered to Lessor at least ten (10) calendar days prior to the effective date of the insurance policy for which the certificate is issued and prior to the Effective Date of this Lease. Each insurance policy shall contain:

- A. a statement of the coverage provided by the policy;
- B. a statement certifying the Lessor to be listed as an additional insured in the policy;
- C. a statement of the period during which the policy is in effect;
- D. a statement that the annual premium or the advance deposit premium for such policy has been paid in advance; and
- E. an agreement by the insurance company issuing such policy that the policy shall not be canceled or reduced in any amount for any reason whatsoever without at least thirty (30) days prior written notice to Lessor.

#### **6.06 INDEMNIFICATION.**

**LESSEE AGREES TO INDEMNIFY AND HOLD LESSOR HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY, OR INDIRECTLY TO THE OPERATION, CONDUCT OR MANAGEMENT OF LESSEE'S BUSINESS ON THE PREMISES, ITS USE OF THE PREMISES, OR FROM ANY BREACH ON THE PART OF LESSEE OF ANY TERMS OF THIS LEASE, OR FROM ANY ACT OR NEGLIGENCE OF LESSEE, ITS AGENTS, CONTRACTORS, EMPLOYEES, SUBTENANTS, CONCESSIONAIRES, OR LICENSEES IN OR ABOUT THE PREMISES INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE, OR IN PART, FROM THE NEGLIGENCE OF LESSOR. IN CASE OF ANY ACTION OR PROCEEDING BROUGHT AGAINST LESSOR BY REASON OF ANY SUCH CLAIM, LESSEE, UPON NOTICE FROM LESSOR, AGREES TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO LESSOR.**

### **ARTICLE VII - DESTRUCTION OF IMPROVEMENTS BY FIRE OR OTHER CASUALTY**

#### **7.01 Obligations of Lessee.**

During the term hereof, except as provided in Section 7.03 below, should the improvements constructed by Lessee upon the Premises be damaged or destroyed in whole or in part by fire or other casualty, Lessee shall give prompt notice thereof to Lessor, and Lessee, at its own cost and expense, shall promptly repair, replace and rebuild the same, at least to the same extent as the value and as nearly as practical to the character of the buildings and improvements existing immediately prior to such time. Such repairs, replacements or rebuilding shall be made by Lessee as aforesaid and subject to and in accordance with the following terms and conditions:

- A. Prior to commencing such work, Lessee shall deliver to Lessor a set of the preliminary construction plans and specifications in accordance with the terms and provisions of the Declaration. In the event the preliminary plans and specifications are disapproved, Lessee will be so notified and the notice shall specify in detail the reasons therefor and the requested modifications or alterations thereto.
- B. Upon approval of the preliminary plans and specifications, as herein provided, Lessee shall prepare, or cause to be prepared, final working plans and specifications in substantial conformity to the preliminary plans and specifications. Upon completion of the final working plans and specifications, Lessee shall submit the same to appropriate governmental agencies for approval. Upon approval by such agencies and the issuance of permits for the commencement of construction, Lessee shall deliver to Lessor one complete set of the final working plans and specifications as approved by the governmental agencies exercising jurisdiction thereover and copies of all issued permits for the Premises. Changes from the

preliminary plans and specifications shall be considered to be within the scope of the preliminary plans and specifications if such changes are reasonably inferable therefrom or if they are made to comply with suggestions, requests or requirements of the governmental agencies exercising jurisdiction.

- C. Prior to commencing construction, Lessor may require Lessee to furnish a performance and payment bond in accordance with Section 6.04 and, if requested, Builder's Risk Insurance.
- D. Upon compliance with the foregoing, Lessee's obligation to repair, replace or rebuild shall be subject to settlement occurring with the insurance company or companies and said proceeds of such insurance policy or policies having been paid to Lessee. After actual receipt of such insurance proceeds, Lessee shall commence such repair, replacements or rebuilding within a reasonable time and shall continue such work with reasonable diligence until completion.
- E. Upon completion of the construction, Lessee shall deliver to Lessor, a complete set of record (as-built) drawings of the construction signed and sealed by a professional engineer licensed in Texas, and a copy of the issued Certificate of Occupancy for the Premises.

#### **7.02 Insurance Proceeds.**

Upon receipt by Lessee of the proceeds of the insurance policy or policies, Lessee shall disburse such proceeds during construction to pay the cost of such work. If the amount of such insurance proceeds is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged improvements, Lessee shall pay any additional sums required, and if the amount of such insurance proceeds is in excess of the costs thereof, the amount of such excess shall be retained by Lessee.

#### **7.03 Cancellation of Lease.**

Should the improvements on the Premises be damaged or destroyed in whole or in part by fire or other casualty during the last five (5) years of the initial term or last five (5) years of any renewal term of this Lease, Lessee shall be relieved of the obligation to repair, replace and rebuild the same and Lessee shall have the right to cancel this Lease by giving Lessor written notice of such election within thirty (30) days after the date of any such damage or destruction. In such event, this Lease shall terminate as of the date of such destruction and the insurance proceeds received or receivable under any policy of insurance shall be paid to and retained by Lessor, unless Lessor has elected to have the Premises returned to it clear of all improvements in accordance with Section 10.06 hereinbelow, in which case Lessee shall be entitled to such insurance proceeds. All rents payable under this Lease shall be prorated and paid to the date of such cancellation. The receipt of insurance proceeds by Lessor will relieve Lessee from any responsibility to restore the Premises to their former condition.

## ARTICLE VIII - CONDEMNATION

### **8.01 Definitions.**

The following definitions apply in construing the provisions of this Lease relating to the taking of or damage to all or any part of the Premises, or improvements thereon, or any interest in them by eminent domain or condemnation:

- A. "Taking" means the taking or damaging, including severance damage by eminent domain or by condemnation for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation and avoidance proceedings are pending. The taking shall be considered to take place the date actual physical possession is taken by the condemning authority.
- B. "Total Taking" means the taking of the fee title to all of the Premises and improvements thereon.
- C. "Substantial Taking" means the taking of so much of the Premises or improvements or both that one or more of the following conditions results:
  - 1. The remaining portion of the Premises and improvements thereon after such taking would not be economically and feasibly useable by Lessee;
  - 2. The conduct of Lessee's business on the Premises would be substantially prevented or impaired;
  - 3. The portion of the Premises not so taken cannot be so repaired or reconstructed, taking into consideration the amount of the award available for repair or reconstruction, as to constitute a complete rentable structure capable of producing a proportionately fair and reasonable net annual income after payment of all operation expenses including the rent and after performance of all covenants and conditions required of Lessee under this Lease.
- D. "Partial Taking" means the taking of a fee title that is not either a Total or Substantial Taking.
- E. "Improvements" includes, but is not limited to, all buildings, structures, fixtures, fences, utility installations, parking facilities and landscaping on the Premises.
- F. "Notice of Intended Taking" means any notice or notification on which a reasonably prudent person would rely and which such person would interpret as expressing an existing intention of Taking as distinguished by a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a condemnation summons and complaint on a party to this Lease. The notice is considered to have



been received when a party to this Lease receives from the condemning agency or entity a written notice of intent to take containing a description or map reasonably defining the extent of the Taking.

- G. "Award" means compensation paid for the Taking, whether pursuant to judgment, or by agreement, or otherwise.
- H. "Date of Taking" means the date that Lessee is required to vacate the Premises pursuant to a final order of condemnation or agreement between the parties hereto.

#### **8.02 Notice of Condemnation.**

The party receiving any notice of the kind specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

- A. Notice of Intended Taking;
- B. Service of any legal process relating to condemnation of the Premises or improvements; or
- C. Notice in connection with any proceedings or negotiations with respect to such a condemnation.

#### **8.03 Rights of Parties during Condemnation Proceeding.**

Lessor and Lessee shall each have the right to represent its respective interest in each proceeding or negotiation with respect to a Taking or Intended Taking and to make full proof of its claims. No agreement, settlement, sale or transfer to or with the condemning authorities shall be made without the consent of all parties. Each party agrees to execute and deliver to any other party hereto any instrument that may be required to facilitate the provisions of this Lease relating to the condemnation.

#### **8.04 Taking of Leasehold.**

Upon a Total Taking, Lessee's obligation to pay Rent and other charges hereunder shall terminate on the Date of Taking, but Lessee's interest in the leasehold shall continue until the Taking is completed by deed, contract or final order of condemnation. If the Taking is a Substantial Taking under the aforementioned definition, Lessee may, by notice to Lessor within ninety (90) days after Lessee receives notice of the Intended Taking, elect to treat the Taking as a Total Taking. If Lessee does not so notify Lessor, the Taking shall be deemed a Partial Taking. Upon a Partial Taking, this Lease shall remain in full force and effect covering the balance of the Premises not so taken, except that the Rent payable hereunder by Lessee shall be reduced in the same ratio as the percentage of the area of the Premises taken bears to the total area of the Premises.

#### **8.05 Total Taking.**

All of Lessee's obligations under the Lease shall terminate as of the Date of Taking. Upon a Total Taking, all sums awarded for any Lessee-owned improvements and the leasehold estate shall be disbursed to Lessee. All sums awarded for the Premises, as unencumbered by any Lessee-owned improvements, but subject to the Lease, shall be disbursed to Lessor.

#### **8.06 Partial Taking.**

Upon a Partial Taking, all Awards shall be disbursed as follows:

- A. To the cost of restoring the improvements on the Premises; and
- B. The balance, if any, to Lessor and Lessee as follows: Lessee shall receive all sums awarded for Lessee-owned improvements and the Leasehold estate. Lessor shall receive all sums awarded for the Premises, as unencumbered by the Lessee-owned improvements but subject to the Lease.

#### **8.07 Obligations of Lessee under Partial Taking.**

Promptly after any such Partial Taking, Lessee, at its expense, shall repair, alter, modify or reconstruct the improvements on the Premises so as to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased. Notwithstanding the foregoing to the contrary, should there be a Partial Taking in the last two (2) years of the initial term or any renewal term, Lessee shall be relieved of the responsibility to so repair or reconstruct the improvements on Premises as aforesaid by notifying Lessor of its intention to that effect; provided however, that all sums awarded for Lessee owned improvements and the Leasehold estate shall be disbursed to Lessor.

#### **8.08 Taking of Temporary Use of Premises and Improvements.**

Upon any Taking of the temporary use of all or any part or parts of the Premises or improvements, or both, for a period of any estate less than a fee ending on or before the expiration date of the term, neither the term nor the rent shall be reduced or affected in any way and Lessee shall be entitled to any award for the use or estate taken. If a result of the Taking is to necessitate expenditures for changes, repairs, alterations, modifications or reconstruction of the improvements to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased, after the termination of such Taking, Lessee shall receive, hold and disburse the Award in trust for such work. At the completion of the work and the discharge of the Premises and improvements from all liens or claims arising therefrom, Lessee shall be entitled to any surplus and shall be liable for any deficiency.

If any such Taking is for a period extending beyond the expiration date of the term, the Taking shall be treated under the foregoing provisions for Total, Substantial and Partial Takings.

### **ARTICLE IX - ENCUMBRANCES**

#### **9.01 Encumbrance.**

As used herein the term "Mortgage" includes a deed of trust and the term "Mortgagee" includes the beneficiaries under deeds of trust, whether one or more. Lessee may encumber its leasehold estate and its interest in the improvements constructed and to be constructed on the Premises by the execution and delivery of a Mortgage. The Mortgagee of any such Mortgage may deliver to Lessor a written notice specifying:

- A. The amount of the obligation secured by the Mortgage;

- B. The date of the maturity or maturities thereof; and
- C. The name and mailing address of the Mortgagee.

After receipt of such notice, Lessor shall serve such Mortgagee by certified mail at the latest address furnished by such Mortgagee a copy of every notice of default or demand served by Lessor upon Lessee under the terms and provisions of this Lease so long as such Mortgage is in effect.

**9.02 Mortgagee's Rights.**

Upon receipt of a notice or demand in accordance with Section 9.01 above, Mortgagee shall have one hundred and twenty (120) days after receipt of such notice within which, at Mortgagee's election, either:

- A. To cure the default if it can be cured by the payment or expenditure of money;
- B. To perform such other action as may be necessary to cure the default;
- C. If the default cannot be cured within one hundred and twenty (120) days, to commence performance within such one hundred twenty (120) day period and thereafter diligently prosecute same to completion, in which event, the default will have been deemed to have been cured; or
- D. To institute foreclosure proceedings and prosecute same diligently to conclusion.
- E. No notice of a default by Lessee hereunder given by Lessor shall be effective against a Mortgagee that has provided Lessor the information specified in Section 9.01 of this Lease unless Lessor has given a copy of it to such Mortgagee.
- F. No Mortgagee shall have any personal liability under this Lease unless and until it becomes Lessee under this Lease.
- G. The Director will, upon request by any Mortgagee, certify in writing that this Lease is in full force and effect, whether this Lease has been amended, that to Lessor's knowledge Lessee is not in default, and the date through which rent has been paid.
- H. If this Lease and the fee estate in the Premises are ever commonly held as a result of a default by Lessee, then they shall remain separate and distinct estates and shall not merge until such time as all cure periods for Mortgagee specified in this Lease have expired.
- I. This Lease may not be amended, modified, changed, cancelled, waived, or terminated without prior written notice to all Mortgagees. Lessor shall not accept a voluntary surrender of the Lease without consent by all Mortgagees.

**9.03 Rights on Foreclosure.**

In the event of foreclosure by Mortgagee, the purchaser at the foreclosure sale or the person acquiring Lessee's interest in lieu of foreclosure shall succeed to all of Lessee's rights, interests, duties and obligations under this Lease.

**ARTICLE X - EXPIRATION, CANCELLATION, ASSIGNMENT AND TRANSFER**

**10.01 Expiration.**

This Lease shall expire at the end of the term or any extension thereof.

**10.02 Cancellation.**

Subject to the provisions of Article IX above, this Lease shall be subject to cancellation by Lessor in the event Lessee shall:

- A. Be in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of thirty (30) days after Lessor has notified Lessee in writing that payment was not received when due.
- B. File in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Lessee's property and such petition is not dismissed within ninety (90) days after filing;
- C. Make any general assignment for the benefit of creditors;
- D. Abandon the Premises;
- E. Be in violation of any local, state, or federal rules and/or regulations or in default in the performance of any of the covenants and conditions required herein (except payments) to be kept and performed by Lessee, and such violation or default continues for a period of thirty (30) days after receipt of written notice from Lessor to cure such default, unless during such thirty-day period, Lessee shall commence and thereafter diligently perform such action as may be reasonably necessary to cure such default;
- F. Be adjudged bankrupt in involuntary bankruptcy proceedings; or
- G. Be made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Lessee where such receivership is not vacated within ninety (90) days after the appointment of such receiver.

In any of the aforesaid events, which shall be events of default, Lessor may take immediate possession of the Premises including any and all improvements thereon and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing.

Failure of Lessor to declare this Lease canceled upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of Lessor to cancel this Lease by reason of any subsequent violation of the terms of this Lease.

No receipt or acceptance of money by Lessor from Lessee after the expiration or cancellation of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue, or extend the terms of this Lease, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

#### **10.03 Repossessing and Reletting.**

In the event of default by Lessee hereunder which shall remain uncured after the required notices have been given pursuant to this Lease, and for such time as provided herein, Lessor may at once thereafter, or at any time subsequent during the existence of such breach or default:

- A. Enter into and upon the Premises or any part thereof and repossess the same, change the locks on the Premises, install fences and gates, expelling therefrom Lessee and all personal property of Lessee (which property may be removed and stored at the cost of and for the account of Lessee), using such force as may be necessary; and
- B. Either cancel this Lease by notice or without canceling this Lease, relet the Premises or any part thereof upon such terms and conditions as shall appear advisable to Lessor. If Lessor shall proceed to relet the Premises and the amounts received from reletting the Premises during any month or part thereof be less than the rent due and owing from Lessee during such month or part thereof under the terms of this Lease, Lessee shall pay such deficiency to Lessor immediately upon calculation thereof, providing Lessor has exercised good faith in the terms and conditions of reletting. Payment of any such deficiencies shall be made monthly within ten (10) days after receipt of notice of deficiency.

#### **10.04 Assignment and Transfer.**

Lessee shall have the right and privilege to assign or transfer this Lease subject to the prior written approval of Lessor, which shall not be unreasonably withheld; provided, however, that Lessor's approval shall not be required in the event of an assignment of this Lease by Lessee to the first leasehold Mortgagee.

Any person or entity to which this Lease is assigned pursuant to the Bankruptcy Code, 11 U.S.C. 101 et seq., shall be deemed without further act or deed to have assumed all the obligations arising under this Lease on or after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Lessor an instrument confirming such assumption.

#### **10.05 Subleasing.**

Lessee shall have the right to sublease all or any part of the Premises hereunder for the same purposes permitted under the terms and provisions of this Lease, including but not limited to the insurance and indemnity requirements. Any such sublease executed after the effective date of this

Lease shall be subject to the same conditions, obligations and terms as set forth herein and Lessee shall be responsible for the observance by its sublessees of the terms and covenants contained in this Lease. On or before January 1<sup>st</sup> and July 1st of each year of the Initial Term or Option Period of this Lease, Lessee shall report to Landlord any subleases of the Premises, or any improvements thereon and, upon request of Landlord, Lessee shall furnish Landlord with a copy of the Sublease Agreement. In addition, Lessee shall provide a list of its sublessees and the sublessees contact information and shall provide to Landlord updated information whenever said sublessees information changes.

#### **10.06 Rights upon Expiration.**

At the expiration of this Lease, Lessee shall return the Premises to Lessor clear of all improvements above and below ground level and to have the soil compacted to Lessor's specifications, with no subterranean uses.

Within one hundred twenty (120) days prior to the expiration of this Lease and prior to removing any improvements from the Premises, Lessee, at its own cost and expense, shall cause to be made, executed, and delivered to Lessor two (2) separate bonds, as follows:

- A. A contract surety bond in a sum equal to the full amount for the removal of improvements and the compaction of the soil.

Said bond shall guarantee the faithful performance of necessary construction and completion of removal of the improvements and compaction in accordance with approved final plans and detailed specifications which have been approved by the Director and appropriate City departments; and shall guarantee Lessor against any losses and liability, damages, expenses, claims and judgments caused by or resulting from any failure of Lessee to perform completely the work described as herein provided.

- B. A payment bond with Lessee's contractor or contractors as principal, in a sum equal to the full amount of the removal and compaction contract awarded.

Said bond shall guarantee payment of all wages for labor and services engaged and of all bills for materials, supplies, and equipment used in the performance of said removal and compaction contract.

In accordance with Article 3503.004 of the Texas Insurance Code, if a performance bond is in an amount of excess of ten percent (10%) of the surety's capital and surplus, the Lessor will require, as a condition to accepting the bond(s), a written certification from the surety that the surety has reinsured the portion of the risk that exceeds ten percent (10%) of the surety's capital and surplus with one or more reinsurers who are duly authorized, accredited or trusted to do business in the State of Texas.

In lieu of the payment and performance bonds described in Paragraph A and B, above, Lessee may, at Lessee's option, provide Lessor with an irrevocable Letter of Credit, in a form acceptable to the Director in her/his reasonable discretion, and subject to approval by the City Attorney, in an amount equal to the full amount of the removal and compaction contract awarded. Such Letter of

Credit shall be issued by a national banking association shall provide for partial draws, and shall have an expiration date of at least ninety (90) days after the completion date provided in the removal and compaction contract. Such Letter of Credit shall be payable upon presentment accompanied by an affidavit by an authorized representative of Lessor indicating that the proceeds to be paid will be used by Lessor to either (i) pay sums due and owing pursuant to the removal contract awarded or (ii) complete removal of the improvements contemplated by the removal and compaction contract.

In addition, upon expiration of this Lease for any reason and no later than thirty (30) days after the complete removal of improvements, Lessee, shall provide Lessor with an engineering report on the compaction of the Premises and the Lessee's Report as identified in Paragraph 5.03D of this Lease and if, in the opinion of Lessor, the engineering report on compaction indicates the soil has not been compacted in accordance with approved plans or if Lessee's Report indicates that the Premises are in violation of applicable Environmental Laws, then Lessee shall perform work as is necessary to cause the Premises to be in compliance with approved plans and applicable Environmental Laws.

Lessee shall have one hundred and eighty (180) days after expiration in which to remove such improvements and compact the soil, at its sole cost and expense; provided that any occupancy by Lessee for the purposes of removing the improvements and compacting the soil and for completing the Lessee's Report and any required remediation of the Premises shall be subject to the rent due hereunder and provided further that Lessee shall continue to be bound by the terms and conditions of this Lease. Lessee and Lessor agree that this continued tenancy will not be continued as an extension or renewal of the lease term for other than the aforementioned one hundred eighty (180) days.

If Lessee fails to remove said improvements and compact the soil, to provide the required engineering report or an environmental assessment or to complete any required remediation of the Premises, Lessor may elect to perform the identified requirements and Lessee shall promptly reimburse Lessor for all its costs upon written notice from Lessor.

#### **10.07 Landlord's Lien.**

It is expressly agreed that in the event of default in the payment of Rent or any other sum due from Lessee to Lessor under the terms of this Lease, Lessor shall have a lien upon all goods, chattels, personal property or equipment, save and except delivery vehicles or rolling stock belonging to Lessee which are placed in, or become a part of, the Premises, as security for Rent due and to become due for the remainder of the Lease term, which lien shall not be in lieu of or in any way affect the statutory landlord's lien given by law, but shall be in addition to that lien, and Lessee grants to Lessor a security interest in all of Lessee's personal property placed in or on the Premises for purposes of this contractual lien. Provided, however, that the terms of this provision shall have effect only to the extent they are not inconsistent with the rules and regulations of the Interstate Commerce Commission and any other laws pertaining thereto and the Railroad Commission of the State of Texas. Lessor agrees that Lessor will not levy a landlord's lien against any delivery vehicle or rolling stock or any of the goods or personal property of third parties in the possession of Lessee, any sublessee or any assignee of Lessee. In the event Lessor exercises the option to terminate the leasehold as provided herein, Lessor, after providing reasonable notice to Lessee of its intent to take possession and giving an opportunity to cure the default, may take possession of

all of Lessee's property on the Premises and sell it at a public or private sale after giving Lessee reasonable notice of time and place of any public sale or of the time after that any private sale is to be made, for cash or credit, for such prices and terms as Lessor deems best. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing and selling such property, then to the payment of any rent due or to become due under this Lease, with the balance, if any, to be paid to Lessee.

## **ARTICLE XI - GENERAL PROVISIONS**

### **11.01 Continuity of Deed Restrictions and Covenants.**

This Lease agreement is subject to the terms, covenants and conditions contained in the Declaration. Lessor reserves the right to revise the standards set forth in Exhibit "B" provided, however, that such revisions will not cause a substantial reduction in the value of Lessee's leasehold interest, result in a material cost or expense to Lessee, or be contradictory to the reasonable and prudent operation of property located within Boeing Business District similar to the Premises. Lessor's right to revise the restrictions and covenants contained in the Declaration, is limited to the right to revise said document because of the development of new concepts or improved construction and architectural techniques and, in any event, such revisions shall be operative on a going forward basis only and shall not apply retroactively to any existing improvements.

### **11.02 Right of Flight.**

Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for the use of said airspace for landing on, taking off from or operation on the Airport.

Lessor reserves to itself, its successors and assigns, for the use and benefit of the public, a continuing right and easement over the Premises to take any action it deems necessary to prevent the construction, erection, alteration or growth of any structure, tree or other object in the vicinity of the runways at the Airport which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Subpart C of Part 77 of the Federal Aviation Regulations.

Lessor reserves for itself, its successors and assigns the right to prevent any use of the Premises which would interfere with aircraft landing on or taking off from the Airport and the right to prevent any other use of the Premises which would constitute an airport hazard.

### **11.03 Time Is of the Essence.**

Time is and shall be deemed of the essence in respect to the performance of each provision of this Lease.

### **11.04 Notices.**

All notices provided to be given under this Lease shall be given by a) expedited delivery service with proof of delivery, or b) United States Mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the proper party at the following addresses:

22-1003-1270 / Doc#1163892.5 / Chenausk Properties & Investments, LLC / Boeing Business District Lease / 7309 Boeing Drive/JF



<b>LESSOR:</b> City Clerk City of El Paso P.O. Box 1890 El Paso, Texas 79950-1890	Director of Aviation El Paso International Airport 6701 Convair Rd. El Paso, Texas 79925-1091
<b>LESSEE:</b> Chenausky Properites & Investments, LLC Attn: Richard Chenausky 1705 Rod Curl El Paso, Texas 79936	

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Any party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to all other parties in the manner set forth in this Section.

**11.05 Attorney's Fees.**

If either party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Lease, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

**11.06 Agreement Made in Texas.**

The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Lease. Venue shall be in the courts in El Paso County, Texas.

**11.07 General Civil Rights Provision.**

Lessee agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Lessee transfers its obligation to another, the transferee is obligated in the same manner as the transferor.

This provision obligates the Lessee for the period during which the property is owned, used or possessed by the Lessee and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

**11.08 Compliance with Nondiscrimination Requirements.**

During the performance of this contract, the Lessee, for itself, its assignees, and successors in interest (for purposes of this Section 11.08 hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will 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. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Lessor (for purposes of this Section 11.08 hereinafter referred to as the "sponsor") or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### **11.09 Affirmative Action.**

Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations

applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from the City of El Paso, to insure that no person shall, on the grounds of race, color, sex, age, disability or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Subpart. Lessee assures that it will require that its covered sub-organizations (sublessees) provide assurances to Lessor, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their sub-organizations (sublessees) to the same effect.

#### **11.10 FAA Order 1400.11.**

Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following:

1. A. Lessee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in Pertinent List of Nondiscrimination Authorities (Federal Aviation Administration Order 1400.11, Appendix 4) as same may be amended from time to time (the "Acts and Regulations") such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said instrument had never been made or issued. [FAA Order 1400.11, Appendix C]

2. A. The Lessee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the listed acts and authorities appearing in the Acts and Regulations.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and

repossess said Premises and the facilities thereon, and hold the same as if said instrument had never been made or issued. [FAA Order 1400.11, Appendix D]

3. A. During the term of this Lease, Lessee for itself, its assignees, and successors in interest, as a part of the consideration hereof, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). Grantee

shall take reasonable steps to ensure that LEP persons have meaningful access to its programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination because of sex in education programs or activities (20 USC 1681 *et seq.*).

B. In the event of breach of any of the covenants in this section 3, Lessor shall have the rights and remedies set forth in sections 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E]

#### **11.11 Cumulative Rights and Remedies.**

All rights and remedies of Lessor here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by Lessor of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

#### **11.12 Interpretation.**

Lessor and Lessee agree that this Lease has been freely negotiated by both parties and that any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms or conclusion. There shall be no inference, presumption, or conclusion drawn whatsoever against other party by virtue of that party having drafted this Lease or any portion thereof.

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

#### **11.13 Agreement Made in Writing.**

This Lease contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

#### **11.14 Paragraph Headings.**

The Table of Contents of this Lease and the captions of the various articles and sections of this Lease are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, context or intent of this Lease or any part or parts of this Lease.

#### **11.15 Severability.**

If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

**11.16 Successors and Assigns.**

All of the terms, provisions, covenants and conditions of this Lease shall inure to the benefit of and be binding upon Lessor and Lessee and their successors, assigns, legal representatives, heirs, executors and administrators.

**11.17 Taxes and Other Charges.**

Lessee shall pay all taxes and governmental charges of any kind whatsoever that may be assessed against Lessee or Lessor, with respect to the Premises, any improvements, equipment, personal property or inventory thereon or Lessee's use and/or occupancy of the Premises, during the Term of this Lease including any extensions granted thereto. By March 1 of each year of this Lease and at no charge to Lessor, Lessee will provide written proof satisfactory to the Director that all taxes and governmental charges of any kind as described herein have been paid in full.

Lessor is a tax-exempt governmental entity and shall not be responsible for any taxes or assessments arising from Lessee's use of the property or possession of the Premises.

Lessee in good faith may contest any tax or governmental charge, provided that Lessee may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom unless, in the opinion of counsel satisfactory to Lessor, such action will not adversely affect any right or interest of Lessor.

**11.18 Waiver of Warranty of Suitability.**

LESSOR DISCLAIMS ANY WARRANTY OF SUITABILITY THAT MAY ARISE BY OPERATION OF LAW. LESSEE LEASES THE PREMISES AS IS AND LESSOR DOES NOT WARRANT THAT THERE ARE NO LATENT DEFECTS THAT ARE VITAL TO LESSEE'S USE OF THE PREMISES FOR THEIR INTENDED COMMERCIAL PURPOSE NOR SHALL LESSOR BE RESPONSIBLE OR LIABLE FOR ANY CONDITION OF THE PREMISES WHICH SHALL SOLELY BE THE RESPONSIBILITY OF LESSEE.

**11.19 Survival of Certain Provisions.**

All provisions of this Lease which expressly or impliedly contemplate or require performance after the cessation, expiration, cancellation, or termination of this Lease hereunder shall survive such cessation, expiration or termination of this Lease, including without limitation, Paragraphs 5.03 and 6.06.

**11.20 Restrictions and Reservations.**

This Lease is subject to all rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land. Lessor reserves the right to grant any future rights-of-way, easements, dedications, restrictions, reservations, or encumbrances and Lessee consents to and will diligently execute all documentation necessary to complete any future rights-of-way, easements, dedications, restrictions, reservations, or encumbrances, so long as such grants do not adversely affect Lessee's use of the Premises.

Lessor reserves for itself and any authorized agent to, at any reasonable time and with 24-hour notice, enter upon and inspect the Premises for all legal purposes, including without limitation the purpose of ascertaining whether the maintenance of such parcel, and the maintenance,

construction, or alteration of structures thereon are in compliance with all the Environmental Laws and for the purpose of showing the Premises; Lessor shall not be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

**11.21 Subordination of Lease.**

All rights granted in this Lease shall be subordinate to the rights in any deed from the United States to the City of El Paso. This Lease shall further be subordinate to the provisions of any existing or future agreements between Lessor and the United States relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. Should the effect of such agreement with the United States Government be to substantially destroy the commercial value of the Premises, Lessee may cancel this Lease in its entirety. Should Lessee cancel its lease pursuant to this paragraph, it can pursue any remedies available to it under the Section VIII of this Lease.

**11.22 Authorization to Enter Lease.**

If Lessee signs this Lease as a corporation, each of the persons executing this Lease on behalf of Lessee warrants to Lessor that Lessee is a duly authorized and existing corporation, that Lessee is qualified to do business in the State of Texas, that Lessee has full right and authority to enter into this Lease, and that each and every person signing on behalf of Lessee is authorized to do so. Upon Lessor's request, Lessee will provide evidence satisfactory to Lessor confirming these representations.

**11.23 Effective Date/Memorandum.**

Regardless of the date signed, this Lease shall be effective as of the date indicated on the Title Page of this Lease. Subsequent to the full execution and delivery of this Lease, Lessor and Lessee may, upon request by Lessee, execute and acknowledge a memorandum of this Lease in a form and substance reasonably acceptable to Lessor and Lessee. Lessee shall provide to Lessor a copy of the memorandum filed of record in the Real Property Records for El Paso County, Texas.

**11.24 Complete Agreement.**

This agreement, together with the attachment(s) attached hereto, constitutes the entire agreement among the parties relating to the terms and conditions of the agreement. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this agreement confers not rights on any person or business entity that is not a party hereto. This agreement shall not be construed against or unfavorably to any part because of such party's involvement in the preparation or drafting of this agreement.

*(Signatures begin on following page)*

**LESSOR'S SIGNATURE AND ACKNOWLEDGMENT**

IN WITNESS WHEREOF, the parties have hereunto set their hands as of this \_\_\_\_ day of \_\_\_\_\_, 2022.

**LESSOR: CITY OF EL PASO**

\_\_\_\_\_  
Tomás González  
City Manager


**ATTEST:**

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Sam Rodriguez, P.E.  
Director of Aviation

**ACKNOWLEDGMENT**

THE STATE OF TEXAS   )  
  )  
COUNTY OF EL PASO   )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Tomás González as City Manager of the City of El Paso, Texas.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:  
\_\_\_\_\_

*(Signatures Continue on the Following Page)*



# LESSEE'S SIGNATURE AND ACKNOWLEDGMENT

LESSEE:

By: Richard D. Chenausky, Owner

R.D. Chenausky

Print Name: R.D. Chenausky Sr.

Title: Manager

## ACKNOWLEDGMENT

THE STATE OF Texas

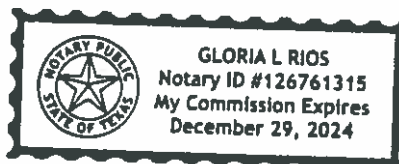
COUNTY OF El Paso

This instrument was acknowledged before me on this 16 day of August, 2022, by Richard D. Chenausky, Owner (Lessee).

Gloria L Rios  
Notary Public, State of Texas

My Commission Expires:

12.29.2024



**EXHIBIT "A" - Property Description & Metes and Bounds of Premises****PROPERTY DESCRIPTION  
30,000 SQUARE FEET OR  
0.689 ACRE**

Being the description of all of Lot 21 and the east 1/2 of Lot 20, Block 4, El Paso International Airport Tracts, Unit 2, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the City Monument at the centerline intersection of Grumman Street (68 feet wide) and Boeing Drive (68 feet wide);

THENCE, along the centerline of said Boeing Drive, South  $81^{\circ}10'07''$  West, a distance of 334.00 feet to a point for corner;

THENCE, leaving said centerline, North  $08^{\circ}49'53''$  West, a distance of 34.00 feet to a southeast corner of said Lot 21 and POINT OF BEGINNING for the herein described Tract;

THENCE, along the north right-of-way line of said Boeing Drive, South  $81^{\circ}10'07''$  West, a distance of 150.00 feet to a point for corner in the midway of Lot 20;

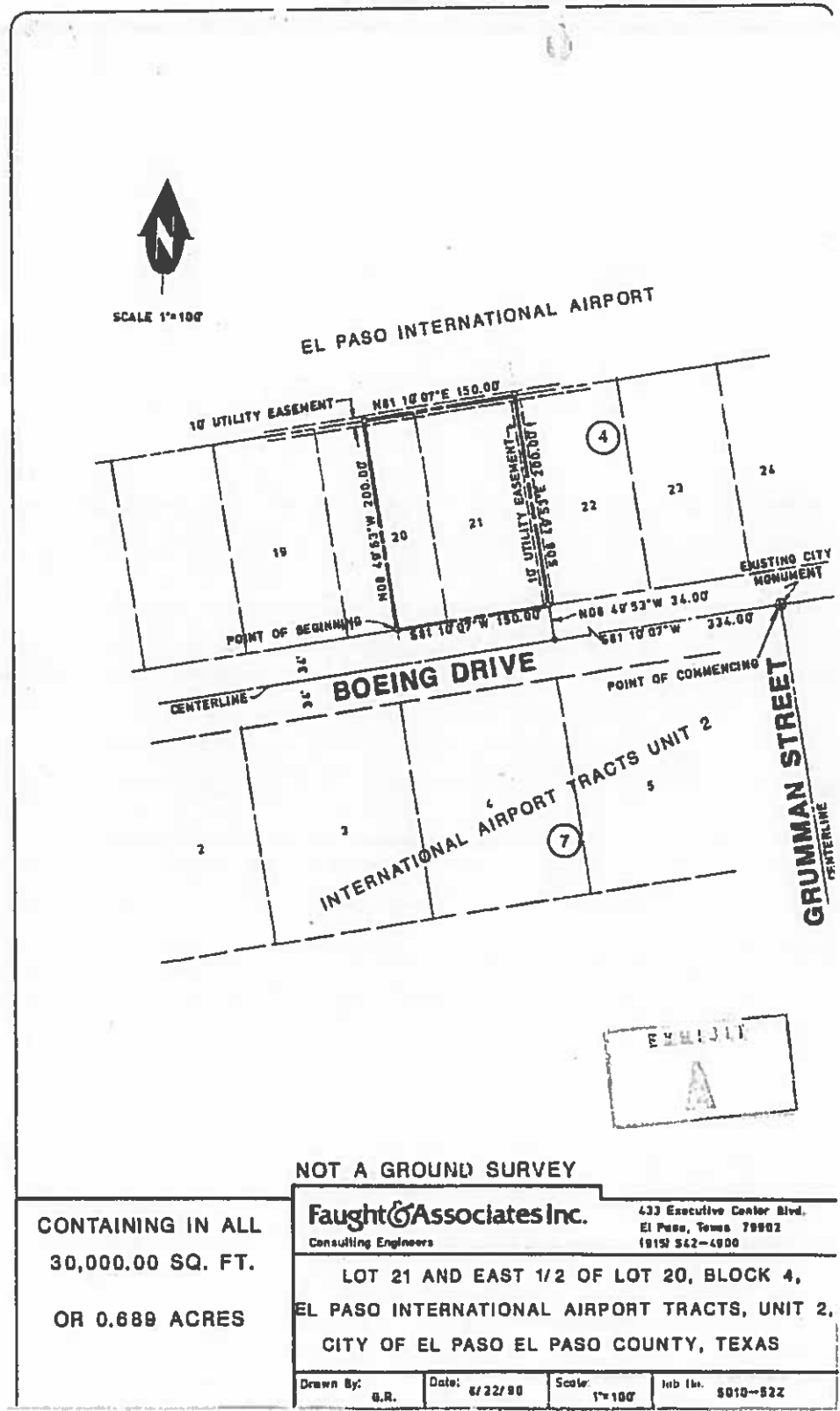
THENCE, leaving said north right-of-way line, North  $08^{\circ}49'53''$  West, a distance of 200.00 feet to a point for corner in the north line of said Lot 20;

THENCE, along said north line of Lot 20, North  $81^{\circ}10'07''$  East, a distance of 150.00 feet to the northeast corner of Lot 21;

THENCE, along the east line of said Lot 21, South  $08^{\circ}49'53''$  East, a distance of 200.00 feet to the POINT OF BEGINNING and containing 30,000 square feet or 0.689 acre of land.

PREPARED BY:  
Fought & Associates Inc.  
El Paso, Texas  
June 21, 1990  
Job No.: 5010-522





## EXHIBIT “B” – Declaration of Restrictions and Covenants

### DECLARATION OF RESTRICTIONS AND COVENANTS

El Paso International Airport

El Paso, Texas

#### ARTICLE 1 - PROPERTY

This Declaration of Restrictions and Covenants (“Declaration”) applies to all leases of Airport property.

#### ARTICLE 2 - DEFINITIONS

The words and phrases defined in this Article shall have the following meanings when used elsewhere in this Declaration:

- 2.01 AIR OPERATIONS AREA (AOA): A portion of an airport, specified in the airport security program, in which security measures specified in Title 49 Code of Federal Regulations (CFR) Part 1500 are implemented. This area includes aircraft movement areas, aircraft parking areas, loading ramps, and safety areas for use by aircraft regulated under 49 CFR Parts 1544 or 1546, and any adjacent areas (such as general aviation areas). This area does not include the Secured Area.
- 2.02 BUILDING: The main portion of any building located on a Lot and all projections or extensions therefrom, including garages, outside platforms and docks, carports, canopies, and porches. Ground cover shall not be included.
- 2.03 BUILDING COVERAGE: The surface area of a Building Site that may be covered by Buildings, expressed as a percentage of the total site area.
- 2.04 BUILDING SITE: The entire Lot or Lots (if contiguous) leased by one Lessee.
- 2.05 CITY: The City of El Paso, Texas, its duly elected Council, or any duly constituted agent or committee representing said Council to fulfill the obligations herein required.
- 2.06 COMMERCIAL USE: Any use of the Building Site for the provision of goods and services which are used in support of the community’s trade and service establishments and which the intensity of the use is compatible with each other surrounding uses and provides for a wide range of types of commercial activity.
- 2.07 DECLARATION: means this Declaration of Restrictions and Covenants and includes any amendments to this Declaration of Restrictions and Covenants.
- 2.08 DECLARANT: The City of El Paso, a political subdivision of the State of Texas.
- 2.09 DIRECTOR OF AVIATION: Director of the Department of Aviation for the City of El Paso.
- 2.10 ESCORT: An individual granted unescorted access to secured areas of the Airport may escort non-badged individuals into secure areas for official business purposes. An individual

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granted escort authorization in the SIDA and Sterile areas must have an "E" designation on their Airport identification badge. The person/persons being escorted must have official business in the area and be strictly controlled by the badged individual.

- 2.11 FAA: The Federal Aviation Administration of the U. S. Government or any federal agencies succeeding to its jurisdiction.
- 2.12 FOREIGN-TRADE ZONE: The use of any Lots or any part thereof on airport property for Industrial Operations or other activities that comply with the U.S.. Foreign Trade Zone Act Regulations (Title 15, Code of Federal Regulations), U.S. Customs Service Regulations, and City regulations of Foreign-Trade Zone use.
- 2.13 FRONT LOT LINE: The property line that faces a Street. On corner Lots or Lots fronting on two parallel Streets, the Front Lot Line shall mean the property lines facing each Street, one of which shall be designated by the City as the principal Street.
- 2.14 IMPROVEMENTS: Improvements shall mean but shall not be limited to Buildings, bridges, overpasses, retaining walls, ditches, culverts, lighting supports, earth fills, earth excavations, paving, ground cover, sidewalks, fences, screening walls, signs, and landscaping, constructed, installed, or placed on, under, or above any Lot by or on account of a Lessee.
- 2.11 INDUSTRIAL OPERATION: The manufacturing of products from raw or semi-finished materials, including research, warehousing and wholesaling operations. Retail sales of goods and services are specifically excluded from this definition.
- 2.12 INDUSTRIAL PARK COMMERCIAL SUPPORT: The retail sale of goods and services on a limited basis primarily to the employees of the Lessees in the Industrial Zones as specifically provided herein.
- 2.13 INDUSTRIAL ZONES: Any area of Airport property that may be identified by the Airport as having multiple tenants engaging in Industrial Operations.
- 2.14 LESSEE: Any person, firm, or corporation leasing or subleasing one or more Lots, Building Sites, or space in a Building on a Lot.
- 2.14 LOT: One of the numbered parcels on the map entitled "El Paso International Airport Tracts" as filed with the County Clerk, County of El Paso, Texas.
- 2.15 REAR LOT LINE: The property line generally parallel to the Front Lot Line and contiguous to another Lot. On corner Lots, the Rear Lot Line shall be parallel to the Front Lot Line facing the principal Street; on Lots fronting on two parallel Streets, there shall be no Rear Lot Line.
- 2.16 RESTRICTED AREA: Those portions of the Airport within the AOA that are not identified as SIDA or as Secured Areas.
- 2.17 SECURED AREA: A portion of an airport, specified in the airport security program, in

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which certain security measures specified in Part 1542 of 49 CFR Chapter XII are implemented. This area is where aircraft operators and foreign air carriers that have a security program under Parts 1544 or 1546 of 49 CFR enplane and deplane passengers, and sort and load baggage.

- 2.18 SECURITY IDENTIFICATION DISPLAY AREA (SIDA): That area of Airport property outside of the terminal building and within the security fence where entry to the area is controlled by access card and/or guard posts. An Airport identification badge configured to the SIDA must be displayed by unescorted individuals in the area at all times.
- 2.19 SETBACK: The distance a Building must be set back from the property line of a Lot.
- 2.20 STREET: Any street, highway, or other thoroughfare shown on the map entitled "El Paso International Airport Tracts," as filed with the County Clerk, County of El Paso, Texas.
- 2.21 TSA: The Transportation Security Administration of the U. S. government or any federal agencies succeeding to its jurisdiction.

### ARTICLE 3 - PERMITTED USES AND PERFORMANCE STANDARDS

- 3.01 PERMITTED USES: No Building, structure, or land shall be used for any purpose other than the uses specifically allowed in the lease agreement.
- 3.02 PERFORMANCE STANDARDS: No Lots shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable conditions that may affect any other Lots, including but not limited to:
  - Hazardous activities
  - Vibration or shock
  - Noise
  - Smoke, dust, odor, or other forms of air pollution
  - Heat or glare
  - Electronic or radio interference
  - Illumination
  - Liquid or solid refuse or waste
  - Other substance, condition, or element in such amount as to affect the surrounding area or adjoining premises
  - A. Hazardous Activities: No activity shall be conducted on any Lot that may be or may become hazardous to public health and safety, that shall increase the fire insurance rating for adjoining or adjacent Lots, or that shall be illegal.
  - B. Vibration or Shock: No vibration or shock perceptible to a person of normal sensibilities shall be permitted within fifty (50) feet of the property line.
  - C. Noise: No noise objectionable to a person of normal sensibilities shall be permitted within fifty (50) feet of the property line.

D. Air Pollution: Except for the operation of motor vehicles to, from, and on a Lot as incidental to the use thereof, the following requirements shall apply:

1. Any use producing smoke, gas, dust, odor, fumes, aerosols, particulates, products of combustion, or any other atmospheric pollutant shall be conducted within a completely enclosed building.
2. Any use producing atmospheric emissions shall comply with the standards of the U. S. Environmental Protection Agency, the Texas Air Control Board, any local environmental regulatory body, or any successor organizations performing similar functions, as such regulations exist at the date of the lease to which this Declaration is attached, or which may be enacted during the term of such lease.
3. The emission of odors which are detectable at any point beyond the property line of any plant will not be permitted.

E. Dust Control: All ground areas not covered by structures shall be landscaped or surfaced with concrete, asphaltic concrete, or other comparable dust-free surfacing; shall be maintained in good condition, free of weeds, dust, trash, and other debris; and shall be properly drained and graded. Such development shall be accomplished before issuance of a certificate of occupancy.

F. Heat or Glare: Any operation producing intense glare or heat shall be performed within an enclosed or screened area in such manner that the glare or heat emitted will not be discernible from the property line.

G. Electronic or Radio Interference: No electrical, electronic, or radio emissions shall be produced that will interfere, obstruct, or adversely affect the operation of air navigation aids and Airport communications.

H. Illumination:

1. The source of illumination of any kind on a Lot shall not be visible at the property line except for normal installation of standard interior lighting fixtures within Buildings.
2. The maximum height of any lighting standard shall be limited to thirty (30) feet above curb level.
3. The intensity of illumination shall be limited to 10-foot candles or 0.1 lumens per square foot for open areas or surfaces visible at the property line.
4. The design and location of exterior lighting shall comply in all respects to the requirements of the FAA or any successor agencies and

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other governmental agencies having applicable jurisdiction with respect to height, type, and placement of lighting standards as they may affect the safety of flight operations into, from, and around the Airport.

- I. Refuse and Trash: No refuse or trash shall be kept, stored, or allowed to accumulate on any Lot.
- J. Sewage Disposal Systems: No cesspool, septic tank, or other sewage disposal system or device shall be installed, maintained, or used on any Lot without the approval of the City.
- K. Security: If a Tenant activates space on its leased premises for Foreign-Trade Zone usage, said Tenant will comply with the security requirements imposed by the U.S., Foreign Trade Zone Act Regulations (Title 15, Code of Federal Regulations), U.S. Customs Service Regulations, and City regulations of Foreign-Trade Zone use.

#### ARTICLE 4 - REGULATION OF IMPROVEMENTS

- 4.01 COMPLIANCE: All Buildings and structures shall be in compliance with the El Paso City Code as amended from time to time. This provision applies to the entirety of the Building Site, unless the requirements of the City of El Paso, through its planning and zoning requirements or otherwise, shall be more restrictive, in which case the more restrictive requirements shall apply.
- 4.02 INDUSTRIAL USE MINIMUM SETBACK LINES. The following minimum setback requirements apply to Buildings Sites used for Industrial Operations. No structure of any kind and no part thereof shall be placed on any Lot closer to a property line than hereby described.
  - A. Front Setbacks: Setbacks from Front Lot Lines shall be a minimum of twenty-five (25) feet from the Front Lot Lines; the area between the Street(s) and the Front Setback Line shall be landscaped. If visitor parking is provided in the front Setback area, all Buildings shall be set back a minimum of eighty (80) feet from the Lot line. If the Lessee's Lot or Lots front on more than one street, the front Setbacks shall be from all Lot lines facing a Street.  
  
The front Setback area(s) shall be landscaped and planted in accordance with this Declaration of Restrictions and Covenants except for areas used for parking lots, driveways, or sidewalks. In no event shall less than twenty percent (20%) of the required minimum front Setback area(s) facing a Street be landscaped and planted. If no parking area is provided in the front Setback area(s), the entire front Setback area(s) shall be landscaped.
  - B. Side Setbacks: Side Setbacks shall be a minimum of twenty (20) feet, and up to a maximum of fifty percent (50%) of the required minimum Setback shall



be landscaped and planted at the discretion of the Declarant or its authorized agent. If a single Lessee uses two or more Lots with a common boundary line between them, the side Setback restrictions may be waived by the Director of Aviation for the term of the shortest lease.

- C. Rear Setbacks: Rear Setbacks shall be twenty (20) feet from the Lot line or utility easement line, except that Buildings on Lots abutting railroad spurs may have loading docks extending to the Rear Lot Line, provided such construction does not interfere with utility services.

- D. Exclusions from Setback Requirements: The following structures or Improvements are excluded from the Setback requirements and are thus not considered encroachments on the setbacks:

1. Roof overhang.
2. Steps and walks.
3. Paving and associated curbing, except that parking areas will not be permitted within ten (10) feet of Street property lines.
4. Fences.
5. Landscaping.
6. Planters, none over four (4) feet in height.
7. Railroad spur tracks, switches, and bumpers.
8. Approved signs identifying the Lessee or Sublessee.

- 4.03 COMMERCIAL USE MINIMUM SETBACK LINES: No structure of any kind and no part thereof shall be placed on any Lot closer to a property line than the limits described in the El Paso City Code.

- 4.04 PROPERTIES FRONTING GLOBAL REACH DR: Regardless of use, any Airport property fronting Global Reach Dr. must have a front set back equal to 100 feet plus the minimum setback required by the zoning code, as amended by time to time. The tenant must not rely on the 100 feet requirement as part of any stormwater management requirements and landscaping requirements. Tenants must still comply with frontage landscaping requirements along Global Reach Dr.

4.05 EXCAVATION:

- A. General: No excavation shall be made by a Lessee unless the excavation is directly related to the construction of an Improvement on the Building Site approved by the Declarant. When construction is complete, all disturbed ground shall be filled or graded and shall be landscaped in accordance with and conform

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to this Declaration of Restrictions and Covenants.

- B. Cut and Fill: The Declarant or any authorized agent thereof may at any time enter and make such cuts and fills on any Lot or other part of said Lot and do such grading and moving of earth as, in its judgment, may be necessary to improve or maintain the Streets in or adjacent to any Lot and to drain surface waters therefrom; provided that after the principal structure on a Lot shall have been completed in accordance with approved plans, the rights of the Declarant under this paragraph shall terminate with respect to such Lot, except that the Declarant shall thereafter have the right to maintain existing Streets and drainage structures.

- 4.06 LANDSCAPING: Every Lot on which a Building shall have been placed shall have landscaping according to plans prepared in accordance with the standards established in this Declaration. The first phase of such landscaping, as approved, shall have been completed within ninety (90) days from the date the certificate of occupancy has been filed.

Setback areas shall be landscaped to the minimum extent outlined in this Declaration. In addition, paving or landscaping shall extend from the property line to the curb, such paving and landscaping to be compatible with treatment for this area on other lots on the same block.

All trees shall be limited to a height of thirty-five (35) feet above the curb line.

Desert planting, defined as native desert plants set in a ground cover of boulders, pebbles, and/or sand, shall not comprise more than twenty percent (20%) of any given setback area planting program. This limitation may be waived by the Director of Aviation upon submittal of detailed landscape plans indicating a greater coverage by desert planting.

Vegetation that produces seeds, fruits, or berries, or that provides dense roosting or nesting cover is prohibited. Turf grass and well as any grass seed mixtures containing millet or any other large-seed producing grass is also prohibited. Should any landscaping observed to be attracting birds or wildlife, Lessor will be required to remove said vegetation within ten (10) days of notice after a request in writing from the Declarant or its authorized agent to have it removed, the Declarant or its authorized agent may enter on any Lot to remove same by whatever means it deems necessary. Such entry shall not be deemed a trespass, and the Declarant shall not be subject to any liability therefor. The cost of such work plus 10% shall be borne by the Lessee.

Lessees are encouraged to expand landscape development plans to include such elements as pools, fountains, sculpture, rock arrangements, sheltered outdoor seating areas, all subject to design approval by the Director of Aviation prior to installation.

- 4.07 SIGNS: The following regulations shall apply to all signs displayed for observation from outside a building whether displayed on, near, or within a building:

- A. Permitted Signs: Signs on the Airport shall be limited to those identifying the

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uses conducted on the site, to those necessary for directional purposes, and to those required to advertise the rental of the specific property on which the sign is displayed. The size, design, and location of all signs shall require the written approval of the Director of Aviation or its authorized agent prior to installation. Outdoor advertising, billboards, or flashing lighting shall not be permitted.

- B. Area and Location: One sign may be permitted in the front of each leasehold and one sign may be attached to the side of the building which faces a public street, both to state only the name, products, and services of the Lessee. The sign in the front of the leasehold shall not exceed one square foot area for each lineal foot of lot frontage and shall not extend more than 35 feet in height above the ground.
- C. Construction: All signs shall comply with all building codes of the City of El Paso and with all rules and regulations of the Federal Aviation Administration or any successor agencies.

- 4.08 PARKING AREAS: Adequate off-street parking shall be provided to accommodate the parking requirements of a business within the limits of the Lot. Parking for employees, visitors, and business vehicular traffic shall be provided on the Lot and designated by white lines painted on the paved surface. All parking must comply with applicable City parking ordinances.

Parking shall not be permitted on the public Streets and between the Street pavement and property line. If visitor parking is provided in the front Setback area, all Buildings shall be set back a minimum of eighty (80) feet from the Lot line. If visitor parking is permitted in the front Setback area(s), such parking shall be screened from the Street(s) by approved trees or shrubbery specified in the Airport Landscaping Standards or such other screening as may be approved by the Declarant or its authorized agent.

- 4.09 STORAGE AND VEHICLE LOADING AREA: All outside storage and refuse areas shall be constructed and contained to eliminate odors, insects, dust, visual nuisances, and other similar nuisances.

No materials, supplies, or equipment, including company-owned or company-operated trucks, shall be stored in any area on a Lot except inside a closed Building or behind a barrier completely screening such areas from view of adjoining Lots and/or public Streets.

All provisions for the loading and maneuvering of vehicles incidental to the operation of the business shall be placed on the Lot(s) leased and shall not encroach into Setback areas except the side setback area; on street vehicle loading shall not be permitted. Vehicle loading shall be permitted only at the rear of Buildings, or on a side, except that such loading performed at a side shall be completely screened from view of adjoining Lots and/or public Streets.

4.10 BUILDING HEIGHTS: Building heights shall be limited to the height requirements established in the El Paso City Code and in Federal Aviation Regulations Part 77 or successor regulations for the Airport.

4.11 BUILDING REGULATIONS:

- A. General: Any Building, Improvement, or structure on a Lot shall conform to the following general conditions of construction practice.
- B. City Zoning: The El Paso City Code, as amended, shall apply except that in the event of a conflict between the El Paso City Code and the standards in this Declaration, the more stringent requirement shall apply.
- C. FAA Regulations: All construction must comply with applicable codes and ordinances and the rules and regulations of the FAA or any successor agencies, where applicable.
- D. Final Approval by Declarant: Construction shall not commence before the Director of Aviation has granted final approval.

4.12 TYPE OF CONSTRUCTION:

- A. Building Materials: All buildings shall be framed with reinforced concrete or masonry, structural steel, structural aluminum, or wood that has been satisfactorily treated to resist fire, rot, and insects. Approved siding shall be masonry, concrete or glass. Porcelain, enameled steel, anodized aluminum or treated wood may be used upon approval by the Director of Aviation. Concrete, masonry, and treated wood siding shall be kept neatly painted, if used. State-of-the-art changes in types of construction may be permitted from time to time only upon the express condition that any such change be consistent with the intent of this Declaration and that any such change receives written approval of the Director of Aviation. Pre-fabricated metal buildings are specifically prohibited. All structures should employ effective bird deterrent measures to prevent the loafing and nesting of birds.

A minimum of fifteen percent (15%) of the exterior building facade materials on each elevation shall be glass, brick, stone or stucco. The remainder of the facade is to be a combination of concrete, masonry, hardi-plank materials, or wood that has been treated to resist fire, rot, and insects, with a maximum amount of allowed wood being no more than ten percent (10%) and only being utilized for accent and decoration purposes.

- B. Roof Screening: All heating and cooling towers, equipment, etc., placed on the roofs of Buildings shall be screened or enclosed from view so that they are architecturally compatible with the main portion of the Building and cannot be seen from any point within two hundred-fifty (250) feet of the Building at an eye level of six (6) feet above the curbline.

- C. Accessory Buildings, Enclosures, and Fences: Accessory Buildings, enclosures, and fences shall enhance the design of and be of the same quality of materials as the Buildings they serve.
  - D. Building Codes and Ordinances: All Buildings shall conform to all local building codes and ordinances.
  - E. Approval by Director of Aviation: The type of building construction proposed shall be subject to the written approval of the Director of Aviation.
- 4.13 PIPES: No water pipe, gas pipe, sewer pipe, or drainage pipe (other than those within structures) shall be installed or maintained on any Lot above the surface of the ground, except hoses and movable pipes used for irrigation or similar purposes.

#### ARTICLE 5 – SUBMISSION OF PLANS FOR IMPROVEMENTS

- 5.01 AIRPORT DESIGN CRITERIA: All construction of improvements and infrastructure must conform to and comply with the approved plans and specifications submitted by Lessee and approved by the City and the Airport, the applicable statutes, ordinances, building codes, rules and regulations of City and the FAA and such other authorities as may have jurisdiction over the Airport, the Building Site or Lessee's operations herein including, but not limited to the Department of Homeland Security and the Transportation Security Administration, and any successor agencies.
- 5.02 SUBMISSION OF PLANS: All plans for Improvements shall be prepared by registered engineers, architects, and landscape architects; shall be of contemporary design; and shall require prior written approval by Director of Aviation before any construction may begin.

Prior to the execution of a lease for a Building Site, the Declarant and the Lessee shall jointly determine a reasonable time schedule in which final plans and specifications shall be submitted and construction of facilities shall be completed.

The Lessee will submit the following plans to the Declarant within the time schedule determined:

- A. Topographic, Grading, Drainage, Utility, and Plot Plans:
  - 1. Topographic, grading, drainage, and utility plans showing one (1) foot contour intervals and spot elevations referenced to the Airport datum.
  - 2. A plot plan at a scale not smaller than one (1) inch equals one hundred (100) feet showing the relationship of the proposed Improvements to the Lot(s) demised and to the Improvements on adjacent Lots, utilities, and access thereto, curbs, walks, driveways, parking areas, etc.
- B. Floor Plans: Floor plans at a scale not smaller than one-sixteenth (1/16) inch

equals one (1) foot.

- C. Ground Cover Plans: Ground cover plans, including landscaping, in accordance with the Airport Landscaping Standards.
- D. Renderings: A true architectural rendering of the proposed Buildings, including the proposed exterior color scheme, style, materials, landscaping, and design and placement of signs.
- E. Materials and Color Samples: Samples, no smaller than one (1) foot square, of all materials and/or paint or other coating colors to be used on the exterior of all Improvements that are visible from any point on any Lot line. The Declarant reserves the right to approve all said materials and/or colors and further reserves the right to suggest alternative materials and/or colors that, in the sole opinion of the Declarant, shall be determined to be more compatible with the Declarant's objectives for the overall aesthetic character and quality of Improvements on the Airport.
- F. Other Plans: Any other plans, specifications, or design features that the Director of Aviation may deem necessary and request.
- G. Additional Requirements - Foreign-Trade Zone: Tenants who intend to use their facilities as a Foreign-Trade Zone shall, in addition to submittal to the Declarant or its authorized agent submit their plans and specifications to the U.S. Customs Service and other federal agencies, as appropriate, for approval and compliance with the Foreign-Trade Zone Act and other required federal regulations.

- 5.03 FORM AND CONTENT OF PLANS: The Airport Director may promulgate rules governing the form and content of plans to be submitted for its approval and may issue statements of policy with respect to approval or disapproval of architectural styles, details, or other matters pertaining to the plans.

Such rules and such statements of policy may be amended or revoked by the Declarant at any time, and no inclusion in, omission from, or amendment of any such rule shall be deemed to bind the Declarant to its approval or to waive the exercise of the Declarant's discretion as to any such matter.

- 5.04 CODES AND REGULATIONS: All Improvements shall be planned and constructed in accordance with the rules and regulations established by the Declarant or its authorized agent, the laws and ordinances of the City, applicable building codes, and the rules and regulations of the FAA or any successor agencies, where applicable.

- 5.05 REVIEW OF PLANS: Plans and specifications for proposed Improvements submitted to the Declarant for approval by its authorized agent shall be reviewed by Airport staff. Airport staff will review the plans and either approve or disapprove no later than 30 calendar days from the date of complete submission of plans.

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- 5.06 BASIS FOR APPROVAL BY THE DECLARANT: Approval by the Declarant or its authorized agent shall be based on the adequacy of site dimensions and on the general conformity of the plans and specifications to the intent of this Declaration and to the appearance and design of neighboring properties. The Declarant shall not arbitrarily, without written explanation, withhold approval of properly submitted plans and specifications.

Approval of any plans or specifications for use on any one Lot shall not be deemed a waiver of the discretionary right of the Declarant to disapprove the same plans or specifications if such plans or specifications are subsequently submitted for approval for use on any other Lot or Lots.

- 5.07 FAILURE TO APPROVE: If the Declarant fails to approve or disapprove plans and specifications within forty (40) working days after the same have been submitted, it shall be conclusively presumed that the Declarant has disapproved said plans and specifications.

- 5.08 COMMITMENT TO CONSTRUCT: Upon approval by the Declarant of plans for construction of any structure, a copy of the approved plans shall be deposited for permanent record with the Declarant and a copy of such plans bearing the written approval of the Declarant shall be returned to the Lessee of the Lot(s) on which such structure is or will be placed.

Approval of these plans by the Declarant shall constitute a commitment on the part of the Lessee to erect and maintain the Improvements as proposed and approved within the timeschedule established in Paragraph 5.02.

- 5.09 CONSTRUCTION WITHIN TIME SCHEDULE SPECIFIED: Any approved construction shall be pursued diligently in accordance with the approved plans and specifications and shall be completed within the specified time schedule. Failure to complete such work in the specified time schedule shall cause such approval to be automatically withdrawn unless the Declarant or its authorized agent grants written extension of such approval.

After such automatic withdrawal of approval, the Lessee will be considered in default of its lease for such Lot(s), and the Declarant may terminate such lease in accordance with the provisions of that document.

- 5.10 LANDSCAPING PLANS: Trees, shrubs, fences, hedges, or other landscaping shall not be planted, placed, or maintained on any Lot until a complete plan thereof has been submitted to and approved by the Declarant or its authorized agent in writing. The landscaping plans shall be prepared in accordance with this Declaration shall be submitted at the same time as the other plans and specifications for proposed Improvements.

All plans for landscaping Improvements shall be prepared by registered or approved landscape architects. Final approval shall be by the Declarant or its authorized agent.

- 5.10 PLANS FOR ALTERATIONS OF IMPROVEMENTS: All plans for alterations to the leased Lot(s), either for the construction of additional facilities or alterations to existing Buildings, shall be prepared, submitted, and approved as outlined in Paragraphs 5.01 through 5.09 and shall be subject to the same restrictions as herein provided. This paragraph shall apply only to exterior or structural changes; alterations to the interior of Buildings shall not be considered unless they affect the performance standards in Article 3.
- 5.11 FEES: The Declarant may charge and collect a reasonable fee, as determined every five years by the Declarant or its authorized agent, for architectural review and other reviews of plans submitted for approval. Such plans could relate to initial development or alterations to existing development. The fee shall be payable at the same time such plans are submitted. If initial plans or any subsequent plans are disapproved, an additional review fee, as determined by the Declarant or its authorized agent, shall be paid before further review.

The amount of such fee shall not exceed the actual cost to the Declarant of making such examination, including the cost of any architect's or engineer's fees incurred in connection therewith.

#### ARTICLE 6 - ENFORCEMENT

- 6.01 CONSTRUCTION WITHOUT APPROVAL: If any structure shall be erected, placed, altered, or maintained on any Lot other than in accordance with plans and specifications approved by the Declarant or its authorized agent, such erections, alterations, and maintenance shall be deemed to have been undertaken without the approval required herein. This restriction shall be applicable to landscaping and signage plans as well as to architectural plans.

In the event of such construction without approval, the Lessee will be considered in default of the lease for such Lot, and the Declarant may terminate the lease in accordance with the provisions set forth in that document.

- 6.02 ABATEMENT AND REMOVAL: If the Declarant determines that this Declaration is being violated by any Lessee on a Lot or Lots, the Declarant shall have the right after giving notice as required by the lease to enter the Lot(s) of such Lessee to determine the exact cause, effect a cure, and abate or remove the violation from the Lot(s). All the expenses incurred in this action shall be payable by the Lessee or sublessee of the facility in which the violation occurred.
- 6.03 HOUSEKEEPING: If accumulations of weeds, rubbish, or items of equipment or supplies are permitted to remain on a Lot more than ten (10) days after a request in writing from the Declarant or its authorized agent to have them removed, the Declarant or its authorized agent may enter on any Lot to remove same by whatever means it deems



necessary. Such entry shall not be deemed a trespass, and the Declarant shall not be subject to any liability therefor. The cost of such work plus 10% shall be borne by the Lessee.

- 6.04 MAINTENANCE OF LANDSCAPING: The Declarant shall be the sole judge of the quality of maintenance of the landscaping. If landscaping areas are not maintained in accordance with the standards in the lease and those in this Declaration and the condition is not corrected within ten (10) days after written notice from the Declarant or its authorized agent, the Declarant or its authorized agent shall have the right to enter on any of the Lot(s) leased and plant or replant such areas, without being deemed guilty of trespass. The costs therefor, as determined by the Declarant, shall be paid by the Lessee.
- 6.05 SUIT: The Declarant or the lessees of facilities affected by a violation shall have the right to file suit against violators of this Declaration, to prevent a violation, effect a cure, abate or remove a violation, or recover damages for said violation.
- 6.06 ATTORNEY'S FEES: In any legal proceeding for the enforcement of this Declaration or prevention of a violation of this Declaration or any part hereof, the party against whom judgment is rendered shall bear the reasonable expense of attorneys' fees of the prevailing party in the amount to be specified by the Court.
- 6.07 RIGHT OF ENTRY AND INSPECTION: Any authorized agent of the Declarant, at any reasonable time and without notice, may enter on and inspect any Lot to ascertain whether the maintenance of such Lot, Improvements under construction, or alteration of structures thereon are in compliance with the provisions hereof. Neither the Declarant nor such authorized agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.
- 6.08 FAILURE TO ENFORCE A RESTRICTION: The Declarant may fail to enforce any restriction herein specified on any Lessee on a Lot or Lots, but in no event should this be deemed a waiver of this Declaration or the right to enforce.
- 6.09 FEE AND EXPENSES: Lessee shall be responsible for all costs incurred by the Declarant in enforcing any provisions of this Declaration in addition to a 10% fee to recover administrative costs incurred by the Airport.

#### ARTICLE 7 - MISCELLANEOUS PROVISIONS

- 7.01 ACCEPTANCE BY ALL LESSEES: Every person, firm, or corporation who shall hereafter acquire any right, title, or interest in any Lot(s) or Buildings or portions thereof shall have consented and agreed to every covenant and restriction herein contained or implied even though this Declaration may not have been made reference to or part of the documents received as a part of leasing a Lot or Building or any portion thereof.
- 7.02 ASSIGNMENT OF DECLARANT'S RIGHT AND DUTIES: The Declarant has certain rights, powers, and reservations as herein established by this Declaration and may assign to any person, firm, or corporation these rights, powers, and duties evidencing its

consent in writing to accept such an assignment and assume such duties. The person, firm or corporation having accepted the rights of the Declarant shall also be bound to the obligations in this Declaration.

- 7.03 USE PERMITS: Such use and occupancy permits as may be required by the Building Code of the City of El Paso shall be maintained in force at all times by each Lessee.
- 7.04 CUTTING AND FILLING: The City or any authorized agent thereof may at any time make such cuts and fills upon any parcel or other part of said property and do such grading and moving of earth as, in its judgment, may be necessary to improve or maintain the streets in, or adjacent to, any property and to drain surface waters therefrom; provided, however, that after the principal structure upon a parcel shall have been completed in accordance with approved plans, the rights of the City under this paragraph shall terminate with respect to such parcel, except that the City shall thereafter have the right to maintain existing streets and drainage structures.
- 7.05 RESERVATION OF RIGHTS: Declarant hereby reserves the right to modify, amend and revoke any or all portions of these Covenants at any time, at its sole discretion, with or without notice to any person other than by filing notice of such modification, amendment or revocation in the airport website. Further, the Director of Aviation may grant waivers to, or amend parts of this Declaration in the event the Director of Aviation determines that such waiver or amendment is in the best interest of the Airport.

#### ARTICLE 8 – PERTAINING TO GENERAL AVIATION (GA)/ FIXED BASE OPERATORS (FBO)

- 8.01 GENERAL: The requirements within this Article 8 apply to any leases pertaining to GA and FBO and are in addition to all other requirements in this Declaration of Restrictions and Covenants.
- 8.02 PERFORMANCE STANDARDS:
- A. Fire and Explosive Hazards: No activity shall be undertaken involving fire or explosive hazard which shall endanger the property, improvements, or employees of any other property owner or tenant.
  - B. Air Pollution: No activity of any type shall be conducted or permitted on the leased premises, which violates any applicable federal, state or local law, rule or regulation.
  - C. Illumination:
    - 1. Exterior Lighting. The design and location of exterior lighting shall comply in all respects to the requirements of the City, the Federal Aviation Administration or any successor agencies, and other governmental agencies having applicable jurisdiction with respect to height, type, and placement of lighting standards as they may affect the safety of flight operations into, from and around the Airport.

2. **Interior Lighting.** The source of illumination of any kind within any building on the site shall not be visible at the property line except for normal installation of standard interior lighting fixtures within buildings.
- D. **Signs.** The number, size, design, and location of all signs displayed for observation from outside a building whether displayed on, near, or within a building shall be subject to prior written approval by the Director of Aviation. All signs shall comply with any applicable sign ordinances and building codes of the City of El Paso and with all rules and regulations of the Federal Aviation Administration and its successor. Signs on the Leased Premises shall be limited to those identifying the uses conducted on the site and to those necessary for directional purposes. Outdoor advertising, billboards or flashing lighting shall not be permitted.
- E. **Storage.** All storage of every type, except of autos or aircraft, shall be within buildings or enclosures formed by a tight, painted board fence or rock walls. Storage of aircraft parts, service equipment or similar items shall be expressly prohibited outside buildings or such enclosures. Storage of motor vehicles, other than aircraft, is not permitted, provided, however, that motor vehicle parking for reasonable periods of time in designated areas for such, is permitted.

#### 8.03 DEVELOPMENT OF SITE - REQUIRED IMPROVEMENTS FOR GA/FBO

- A. **OFFSTREET PARKING:** All provisions for automobile parking for employees and visitors of the Lessee shall be placed on the lot(s) leased. No parking whatsoever shall be permitted on the streets.  
  
All parking areas shall be in rear setback areas and shall be paved to provide dust-free, all-weather surfaces.  
  
Offstreet parking facilities shall be provided generally in accordance with the El Paso City Code and any amendments or successor ordinances thereto and shall be sufficient for the parking of all automobiles necessary to the conduct of the business.  
  
Each parking space shall be designated by white lines painted upon the paved surface.
- B. **AIRCRAFT PARKING AND SERVICING:** Except for routine parking and servicing of transient aircraft on a specifically designated transient parking apron, all provisions for parking of all aircraft of Lessee and its patrons, if any, shall be on the lot(s) leased. Parking of aircraft in areas other than the lot(s) leased or on transient parking aprons specifically designated by the City is expressly prohibited.
- C. **VEHICLE LOADING:** All provisions for the loading and maneuvering of vehicles incidental to the operation of the business shall be placed on lot(s) leased; on-street vehicle loading shall not be permitted.

- D. **SETBACKS:** All buildings shall be set back a minimum of twenty-five (25) feet from the front lot line and twenty-five (25) feet from the rear lot line. Side setbacks shall be a minimum of ten (10) feet.

One hundred percent (100%) of the required rear setback area shall be landscaped and planted, unless covered by paving.

- E. **LANDSCAPING:** A reasonable amount of landscaping, including the planting of ground- covers, shrubs and trees, shall be required, such landscaping to be in accordance with standards established by the City. The first phase of such landscaping, as approved, shall be installed within a period not to exceed one hundred eighty (180) days after the notice of completion has been filed on the initial building.

Setback areas shall be landscaped to the minimum extent outlined in Paragraph D above. In addition, paving or landscaping shall extend from the property line to the curb, such paving or landscaping to be compatible with treatment for this area on other lots in the same Block.

All trees shall be limited to a height of thirty-five (35) feet above the curb line.

Vegetation that produces seeds, fruits, or berries, or that provides dense roosting or nesting cover is prohibited. Turf grass and well as any grass seed mixtures containing millet or any other large-seed producing grass is also prohibited. Should any landscaping observed to be attracting birds or wildlife, Lessor will be required to remove said vegetation within ten (10) days of notice after a request in writing from the Declarant or its authorized agent to have it removed, the Declarant or its authorized agent may enter on any Lot to remove same by whatever means it deems necessary. Such entry shall not be deemed a trespass, and the Declarant shall not be subject to any liability therefor. The cost of such work plus 10% shall be borne by the Lessee.

- F. **BUILDING HEIGHTS:** All building heights shall conform to FAA rules and regulations, and any amendment and successor rules and regulations. The term building height shall include any building equipment, extrusions, etc.
- G. **SITE COVERAGE:** All buildings and structures, or portions thereof, placed on the lot(s) shall not cover more than fifty percent (50%) of the total lot area.
- H. **TYPE OF CONSTRUCTION:** All buildings shall be framed with reinforced concrete or masonry, structural steel or structural aluminum. Siding shall be masonry, glass, or enameled steel. Concrete or masonry units shall be kept neatly painted, if used. All buildings shall conform to applicable laws, ordinances and building codes of the City of El Paso. All structures should employ effective bird deterrent measures to prevent the loafing and nesting of birds.

All structures for the storage of gasoline, jet fuel, or other petroleum products shall be screened from public view; of a state-of-the-art design and construction, and shall conform to applicable laws, ordinances and regulations of the Environmental Protection Agency (EPA) and the Texas Commission of Environmental Quality (TCEQ), and any successor agencies.

- I. PIPES: No water pipe, gas pipe, sewer pipe or drainage pipe (other than those within structures) shall be installed or maintained upon any building site above the surface of the ground, except hoses and movable pipes used for irrigation or similar purposes, as approved by the City.
- J. FENCING: Construction of fencing between buildings of all tenants on all lots shall be required and limited to the rear lot of the Premises. The placement and design of such construction shall be in accordance with plans and specifications prescribed by the City, or its authorized agent, for the General Aviation Area and shall be uniform throughout the area. The fence must meet the Airport's standard six-foot (6') chain link fence plus three (3) strands of barbed wired for a total height of no less than eight feet (8') and it must be approved by the Director of Aviation.
- K. AVIATION SECURITY: As a result of the various security requirements of the Transportation Security Administration (TSA) and the Airport, the Lessee shall be responsible for compliance with Airport Security regulations and Title 49 Code of Federal Regulations (CFR) Part 1542 (Airport Security) and Title 14 CFR Part 139 (Airport Certification and Operations). Any and all violations pertaining to Part 1542 and Part 139 resulting in a fine will be passed on to and borne by the Lessee. These requirements shall also apply to any Sublessee.

Fines levied against the Airport by the FAA or the TSA for security violations shall be passed on to and borne by the Lessee if the violation is attributed to Lessee deficiencies and/or negligence. Lessee's liability for any civil penalty assessed as a result of an FAA/TSA test failure shall be full payment for fines arising out of any one occurrence. Payment will be due 30 days from notification by the City of El Paso after resolution of the fine amount between the Airport and the FAA and/or TSA.

The Premises include access points to the Air Operations Area (AOA) of the Airport and that the Lessee and its agents, employees, servants or independent contractors must be separately authorized by the Lessor to enter the AOA of the Airport prior to their entry thereon. The authorization to enter the AOA of the Airport is not granted by the Lease, but shall be granted to Lessee upon its completion of all security clearance and identification badging requirements.

The Lessee, employees and any other individuals issued an Airport identification badge under the auspices of the Lessee will ensure that all persons working in the AOA of the Airport will display the proper identification badge for that area or are under the escort of a proper Airport issued identification badge holder. Lessee employees, sublessees and any other person using the AOA is responsible for the payment of all fees required for the issuance of proper identification.

Failure to follow or enforce security rules and regulations will be considered a breach of the Lease attached to this document and Lessee will be considered to be in non-compliance with the terms of this Lease until security violations have been corrected. Repeated violations of the security rules and regulations may be considered an event of default that may result in termination of said Lease.

- L. MOTOR VEHICLES ON AIRPORT: The Lessee shall control the on-Airport transportation of pilots and passengers of all aircraft of Lessee or its patrons using the Lessee's facilities and services. Unauthorized motor vehicles are not permitted on the Air Operations Area (AOA). The Lessee-owned or operated motor vehicles driven on the AOA shall do so only in strict accordance with Airport Rules and Regulations, applicable federal, state and municipal laws, ordinances, codes or other similar regulatory measures now in existence or as may be hereafter modified or amended. The Airport requires training and licensing requirements for AOA driving privileges. Only personnel assigned a Security Badge by Airport Operations may be eligible for driving privileges.

[End of Declaration]



Legislation Text

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File #: 22-1108, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 8**

International Bridges, Karina Brascgalla, (915) 212-1570

International Bridges, David Coronado, (915) 212-7505

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

A Resolution authorizing the City Manager to sign a License Agreement between the City of El Paso and AT&T Corp. for the install, repair and maintain of fiber optic conduit running across the Paso Del Norte Bridge, for a term of seven (7) years with the option of three additional five-year terms, for a Total Fee of \$61,320.23, which is subject to a 5% annual increase.

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

**AGENDA DATE:** August 30, 2022

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Karina Brasgalla, (915) 212-1570  
David Coronado, (915) 212-7505

**DISTRICT(S) AFFECTED:** District 8

**STRATEGIC GOAL:** Goal 1 - Create an Environment Conducive to Strong, Sustainable Economic Development

**SUBJECT:**

A Resolution authorizing the City Manager to sign a License Agreement between the City of El Paso and AT&T Corp. for the install, repair and maintain of fiber optic conduit running across the Paso Del Norte Bridge, for a term of seven (7) years with the option of three additional five-year terms, for a Total Fee of \$61,320.23, which is subject to a 5% annual increase.

**BACKGROUND / DISCUSSION:**

The City Council initially approved a special permit in 1985 between the City and AT&T Communications for long distance telecommunications facilities, which included the subject property. AT&T has constructed and operated telecommunications facilities that are the subject of this license agreement since that date. Changes in Texas state law regarding telecommunications facilities have rendered the previous agreement null. The Licensee therefore wishes to enter into a new license agreement with the City. Similar agreements exist with other telecommunications providers at the Stanton Street and Zaragoza Bridges.

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one?

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**PRIMARY DEPARTMENT:** International Bridges

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

**DEPARTMENT HEAD:**

*David A. Coronado*

(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 City Manager be authorized to sign a License Agreement between the City of El Paso (the "City") and AT&T Corp. (hereinafter the "Licensee"), for Licensee to install, repair and maintain fiber optic conduit running across the Paso Del Norte Bridge, for a term of seven (7) years beginning on the date of the City's approval with the option of three additional five year terms, for an Annual Fee and Bridge License Fee of \$61,320.23, which is subject to a 5% annual increase.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_ 2022.

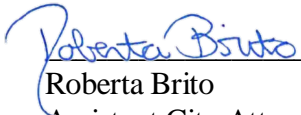
### THE CITY OF EL PASO

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

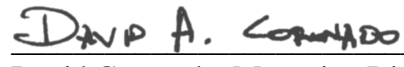
### ATTEST:

\_\_\_\_\_  
Laura Prine  
City Clerk

### APPROVED AS TO FORM:

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

### APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
David Coronado, Managing Director  
Economic Development and  
International Bridges Department

## LICENSE AGREEMENT

**WITNESSETH**

consent of the City. Nothing herein shall grant any real property interest to Licensee except as provided herein.

C. After any repair, replacement, or maintenance of any type or manner on any portion of the City Property, the Licensee shall restore the City Property to the same condition as before such repair, replacement or maintenance and to the reasonable satisfaction of the City.

D. The Licensee's use of any public right-of-way within the City of El Paso permitted under state law shall not be subject to this Agreement.

E. The Licensee acknowledges that this Agreement is not a franchise pursuant to Texas law nor is it a permit to string or bury telecommunications lines in the public right of way or on any City property. Any such franchise or permit must be obtained separately from the appropriate local or state authority.

## **SECTION 2. TERM**

A. The term of this Agreement shall be seven (7) years from the date of the City Council's approval ("***Effective Date***"), unless terminated earlier as provided herein ("***Initial Term***"). At the end of the Initial Term, Licensee shall have the option ("***Option***") to extend the Agreement for three (3) additional five (5) year terms (each an "***Option Term***"). Licensee shall notify the City of its intent to exercise its Option in writing to the City no later than ninety (90) days prior to the expiration date of the Initial Term or the applicable Option Term. Should Licensee fail to submit its notice of its intent to exercise its Option, the Agreement shall expire by its own terms.

## **SECTION 3. CITY'S USE OF CITY PROPERTY**

A. Nothing herein contained shall be construed as granting an exclusive use or right to the Licensee to the City Property, and the City may grant an additional license or other interest to any other applicant in its discretion for the same City Property described herein; provided however, that such additional grant of use does not interfere with the Licensee's use of the City Property.

B. The City reserves the right to use the surface or subsurface or airspace above the City Property covered by this Agreement for any public purposes allowed by law and deemed necessary by the City and to do or permit to be done any work in connection therewith which may be deemed necessary or proper by the City on, across, along, under or over said City Property. Further the City expressly reserves the right to install, repair, or reconstruct the City Property used or occupied by Licensee; provided however, that such work will not interfere with Licensee's use of the City Property.

C. The City reserves the right, subject to further conditions described in this Section, to lay and permit to be laid, utility lines including, but not limited to, storm and sanitary sewer, gas, water, and

other pipelines or cables and conduits, and to do and permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the City in, across, along, over or under any City Property occupied by Licensee. The City shall not be liable to Licensee for any damage resulting thereof, nor shall the City be liable to Licensee for any damages arising out of the performance of any work by the City, or its contractors or subcontractors, not willfully and unnecessarily occasioned; provided, however, nothing herein shall relieve any other persons or entities from liability for damage to Licensee's Infrastructure.

D. If the City requires Licensee to remove, alter, change, adapt, or conform its Infrastructure because of changes in the grade of the City Property or in the location or manner of constructing a water pipe, sewer pipe or other underground or aboveground structure or any other infrastructure to be owned by the City, Licensee shall make the alterations or changes as soon as practicable when ordered in writing by the International Bridges Director **“Director”** without claim for reimbursement or damages against the City. Notwithstanding anything contained to the contrary in this Agreement, the Annual Fee (as defined below in Section 4) shall be abated for the time period for which the Licensee does not have use of its communication system.

#### **SECTION 4. CONSIDERATION**

A. Commencing on the Effective Date, Licensee shall pay the City an Annual Fee. The Annual Fee for 2022 is due in full thirty (30) days after the Effective Date. Beginning January 1, 2023, Licensee shall pay the Annual Fee by January 15 of each year. The payment of the Annual Fee by January 15 of each year is the payment due for the current year. (For example, the Annual Fee paid by January 15, 2023 is the Annual Fee for 2023; the Annual Fee paid by January 15, 2024 is the Annual Fee for 2024, etc.).

B. Should the Licensee exercise its Option to extend the Initial Term pursuant to Section 2 of this Agreement, the Annual Fee for each additional year shall be a 5% increase of the Annual Fee for the preceding year, with payments due in full by January 15 of each year.

C. In addition to the Annual Fee, the Licensee shall pay an annual Bridge Fee. The Bridge Fee for 2022 is due in full thirty (30) days after the Effective Date. Beginning January 1, 2023, Licensee shall pay the Bridge Fee by January 15 of each year. The payment of the Bridge Fee by January 15 of each year is the payment due for the current year. (For example, the Bridge Fee paid by January 15, 2023 is the Bridge Fee for 2023; the Bridge Fee paid by January 15, 2024 is the Annual Fee for 2024, etc.).

D. Should the Licensee exercise its Option to extend the Initial Term pursuant to Section 2 of this Agreement, the Bridge Fee for each additional year shall be a 5% increase of the Bridge Fee for the preceding year, with payments due in full by January 15 of each year.

E. The Annual Fee and the Bridge Fee are collectively referred to as the "Total Fee." The payment schedule for the Total Fee (as detailed in Sections 4.A through 4.D, above) is as follows:

<b>YEAR</b>	<b>ANNUAL FEE</b>	<b>BRIDGE FEE</b>	<b>TOTAL FEE</b>	<b>DUE DATE</b>
2022	\$48,023.40	\$13,296.83	\$61,320.23	Within 30 days of Effective Date
2023	\$50,424.57	\$13,961.67	\$64,386.24	January 15, 2023
2024	\$52,945.80	\$14,659.76	\$67,605.55	January 15, 2024
2025	\$55,593.09	\$15,392.74	\$70,985.83	January 15, 2025
2026	\$58,372.74	\$16,162.38	\$74,535.12	January 15, 2026
2027	\$61,291.38	\$16,970.50	\$78,261.88	January 15, 2027
2028	\$64,355.95	\$17,819.02	\$82,174.97	January 15, 2028

F. Full payment of the Total Fee is due by Licensee in the amount and on the day provided in this Section without the requirement of an invoice from the City.

G. Failure to remit payment of the Total Fee as provided in this Section is an event of monetary default and shall be cause for termination after the following notice. Licensee's failure to make the payment of the Annual Fee within seven days (7) after the payment is due shall constitute a late payment and, in order to cure the default, Licensee shall pay the City a late charge of ten percent (10%) of the Annual Payment in addition to the late Annual Fee. After the City provides written notice of default, Licensee shall have seven (7) days to cure such default. If the Licensee fails to cure such default within seven (7) days from delivery of the notice to the Licensee pursuant to Section 9 below, the City may terminate this Agreement and retain the Security Deposit as liquidated damages. In the event that Licensee is in default of this Agreement for failing to timely pay the Annual Fee three (3) times within the Term or three (3) times within any Option Term, the City may at its sole option terminate this Agreement and Licensee shall have no right to cure the default.

H. The Licensee shall also pay to the City a Security Deposit in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) to secure the performance of the Licensee under this Agreement. The Licensee shall pay the Security Deposit within thirty (30) days of the effective date. Failure

to pay the Security Deposit is an event of monetary default and shall be addressed through the notice process set forth in Section 4.G. to this Agreement.

I. In addition to the Annual Fee, Licensee shall pay all general municipal taxes of whatever nature, including, but not limited to, the ad valorem taxes and special taxes and assessments for private improvements except as hereinafter provided as may be enacted during the term of this Agreement or any extension, subject to any appeal or challenge of any taxes or assessments pertinent to this Agreement by Licensee.

J. The Annual Fee shall be exclusive of and in addition to all costs of obtaining required permits, plans and other approvals as necessary to conform to all other applicable City, state or federal ordinances and regulations.

K. In the event the Licensee continues use of the Infrastructure after the expiration or termination of this Agreement, the amount of the Annual Fee due and payable to the City shall be double and paid monthly until Licensee ceases all use of the Infrastructure, or another agreement is executed.

#### **SECTION 5. INDEMNIFICATION AND INSURANCE**

**A. LICENSEE AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSS, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND OR CHARACTER, INCLUDING ALL EXPENSES OF LITIGATION FOR INJURY OR DEATH TO ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH LICENSEE'S, LICENSEE'S AGENTS, SERVANTS OR EMPLOYEES OR ANY ORGANIZATION'S USE OF THE CITY PROPERTY, REGARDLESS OF WHETHER SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF THE CITY.**

B. Prior to the approval of this Agreement by City Council, Licensee shall provide the City with a certificate of liability insurance and shall maintain such insurance in effect during the term of this Agreement, in the amount of one million dollars (\$1,000,000.00) per occurrence bodily injury liability/\$1,000,000.00 per occurrence property damage liability and five million dollars (\$5,000,000.00) excess or umbrella per occurrence liability policy. These amounts are not a limitation upon Licensee's agreement to indemnify and hold the City harmless.

C. Licensee shall procure the insurance required by this Agreement with a solvent insurance company authorized to do business in Texas. The policy shall provide in substance that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court

of competent jurisdiction against the City, its officers, agents, servants or employees and the licensee, its agents, servants or employees. The coverage must be on an "occurrence" basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, and explosion and collapse hazards. Each policy must include a cancellation provision in which the insurance company is required to notify the City in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits. The certificate shall state the policy number; name of insurance company; name and address of the agent or authorized representative of the insurance company; name, address and telephone number of insured; policy expiration date; and specific coverage amounts.

D. All required policies shall name the City of El Paso, its officers, agents, servants and employees as an additional insured. Licensee shall file an original of the policy or certificate of insurance with the City Clerk, the International Bridges Department, and the Capital Improvement Department prior to any commencement of the use or maintenance of the Infrastructure. The policy shall contain a provision that the policy will not be terminated without providing the City with thirty (30) days prior written notice of termination.

E. In the event Licensee's maintenance work of the Infrastructure will require any construction, Licensee shall file a performance bond in the estimated cost of the work with an effective date prior to the commencement of construction of the Infrastructure for a period of thirty (30) days after the City's final inspection and approval of the work. Such bond shall guarantee the restoration of the City Property in accordance with this Agreement. The surety shall be authorized to do business in the State of Texas.

#### **SECTION 6. RIGHTS IN THE EVENT OF ABANDONMENT**

A. As an express condition of this Agreement, and not as a mere covenant, in the event Licensee abandons the Infrastructure or any portion thereof or the Infrastructure placed in the City Property hereby ceases to be used by Licensee for the purposes enumerated herein for any period of six (6) consecutive months or longer, the Infrastructure shall be deemed abandoned and, at the City's option, the City may require Licensee to remove the Infrastructure and restore the City Property to its original condition or the abandoned property shall automatically become the property of the City, free and clear of any right, title, or interest in Licensee, without the necessity of any notice to Licensee or any re-entry by the City.

B. In the event that the City closes or abandons any portion of the City Property which contains any existing Infrastructure of Licensee, any conveyance of land containing such closed or abandoned City Property may be subject to the rights of Licensee under this Agreement.

#### **SECTION 7. TERMINATION**

A. Either party shall have the option to terminate this Agreement at any time upon giving the other party written notice six (6) months in advance of such termination. In addition, the City shall have the right to terminate this Agreement at any time if necessary to secure efficiency of public service at reasonable rates, or to assure that the City Property is maintained in good order throughout the life of the grant; provided however, if City elects to terminate the Agreement, the City will reimburse Licensee, the prorated amount of the Annual Fee paid to the City. If the City terminates the Agreement due to reasons outside of the City's control, such as but not limited to, requirements by the Federal Government, then the City shall reimburse the Licensee for any portion of the Annual Fee, and Licensee may remove the Infrastructure at their own cost. Should reasons outside of the City's control arise which could potentially lead to a need to terminate the Agreement, the City shall explore available options that do not disturb Licensee's use of the Infrastructure. The City shall give Licensee thirty (30) days written notice to cure any default by Licensee of any material provision or requirement contained in this Agreement. If the default is such that it cannot be cured in thirty (30) days, Licensee shall not be deemed in default provided that Licensee has commenced and is diligently pursuing the cure. The time for curing the default shall be extended for such period of time as is reasonably necessary to complete the cure. If the Agreement is terminated early, the Annual Fee shall be prorated to the date of termination.

B. Upon termination of this Agreement, prior to the expiration of the Initial Term, Licensee shall abandon the Infrastructure together with any improvements thereto, made or erected during the term, including any extensions, of this Agreement located within the City Property and such property shall become the property of the City with no encumbrances of any sort. In the City's discretion, the Director may require the removal of such Infrastructure from said City Property and restoration of all pavement or base, damaged or removed during this Agreement, as determined by the City, at Licensee's own cost and expense. Any such restoration shall be subject to the reasonable approval of the Director.

C. The Infrastructure shall be considered to be improperly installed, repaired, upgraded or maintained if:

- a. The installation, repairs, upgrade or maintenance endangers people;



- b. The Infrastructure does not meet applicable City, state or federal laws or regulations;
- c. The Infrastructure is not capable of being located using standard industry practices;
- d. The Infrastructure is not located in the proper place in accordance with the approved Plans; or
- e. The Infrastructure is placed in an area that interferes with City owned facilities and infrastructure.

## **SECTION 8. RECORDS**

The Director shall be kept fully informed by Licensee as to matters pertaining in any way to Licensee's exercise of its rights under this Agreement, including the use, replacement, maintenance and repair of the Infrastructure on the City Property. Licensee shall keep complete and accurate maps, construction drawings and specifications describing the location of Infrastructure within the City Property. The City shall have the right, at reasonable times to inspect such maps, construction drawings and specifications.

## **SECTION 9. NOTICE**

Any notice or communication required in the administration of this Agreement shall be sent as follows:

City of El Paso  
ATTN: City Manager  
P.O. Box 1890  
El Paso, Texas 79950-1890

with copies to: City of El Paso  
International Bridges Department  
Director  
P.O. Box 1890  
El Paso, Texas 79950-1890

City of El Paso  
Capital Improvement Department  
City Engineer  
P.O. Box 1890  
El Paso, Texas 79950-1890

and: AT&T Corp.  
Attn: Rodrick Waters  
3450 Riverwood Pkwy SE, Rm 162  
Atlanta, GA 30339

or to such other addresses as the parties designate from time to time by written notice.

#### **SECTION 10. ASSIGNMENT**

A. The rights granted by this Agreement inure to the benefit of Licensee, and any parent, subsidiary, or successor entity now or hereafter existing. The rights shall not be assigned without the express written consent of the El Paso City Council, which consent shall not be unreasonably delayed or withheld, provided that the assignment is not to a certificated telecommunications provider or to an entity that will provide local service. A written copy of any such assignment must be filed with the City. Any required consent shall be evidenced in writing by the City Manager that fully recites the terms and conditions, if any, upon which consent is given.

B. If any such Transferee(s) shall obtain possession and use of all or any part of the Infrastructure (the "*Affected Portion*"), then, so long as all of the obligations of Licensee under this Agreement with respect to the Affected Portion are being performed, (i) such Transferee(s) shall agree to be bound by and to observe and perform the obligations of Licensee under this Agreement with respect to the Affected Portion and (ii) City shall not disturb the possession or use of the Affected Portion by such Transferee(s) and shall recognize such Transferee(s)'s right to possession and use thereof, subject, nevertheless, to the terms of this Agreement and the respective rights of the parties herein.

#### **SECTION 11. LEASE, SALE OR DEDICATION OF INFRASTRUCTURE**

Licensee, without the consent of the El Paso City Council, shall not lease, license, sublicense, sell or dedicate or in any manner permit the use of all or a portion of the Infrastructure, to any non-Licensee person or entity. Notwithstanding the foregoing, Licensee shall be allowed, without the consent of the El Paso City Council, (i) to lease, license, sublicense, and permit the use of Licensee's cable installed within the Infrastructure to Licensee's customers, provided that Licensee retains sole ownership of such cable at all times; and (ii) Licensee shall be allowed to provide services to its customers through Licensee's cable installed within the Infrastructure. Licensee shall not allow the placement of any additional cable without the written consent of the Director.

#### **SECTION 12. LICENSEE'S ACCESS AND SECURITY**

Licensee shall have twenty-four (24) hour access to the Infrastructure for purposes of maintenance and repair, subject to any Federal requirements or regulations. The City may coordinate with the Licensee and designate specific access points and establish the times of access, with at least one point having twenty-four hour access. The City agrees that access shall not be provided to any third party to the Infrastructure without providing seventy-two (72) hours advance notice to Licensee.

City shall have the right to supervise the Licensee's and any third party's access to the Infrastructure for security purposes.

### **SECTION 13. MISCELLANEOUS**

**A. Remedies:** This Agreement shall be enforceable in any court of competent jurisdiction by any of the parties or by an appropriate action at law or in equity to secure the performance of the restrictions, conditions and covenants herein contained.

In the event a Party (the “*Defaulting Party*”) commits a breach of this Agreement, the other Party (the “*Non-Defaulting Party*”), shall, prior to bringing suit or pursuing any other remedy, provide written notice of such breach to the Defaulting Party. Following receipt of such notice, the Defaulting Party shall have thirty (30) days within which to cure the breach. If the breach cannot be cured within such thirty (30) day period, the Defaulting Party shall commence to cure such breach within said period and thereafter diligently continue such cure to completion. In the event the Defaulting Party fails to cure the breach within said period, then the Non-Defaulting Party may pursue any remedy provided at law or in equity.

**B. Force Majeure:** In the event either party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, it is agreed that on such party's giving of notice and the full particulars of such force majeure in writing to the other party as soon as possible after the occurrence of the cause relied upon, then the obligations of the party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability but for no longer period.

The term “force majeure” as used herein, shall include, but not be limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, war, terrorism, blockades, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of governments and people, explosions, breakage or damage to machines or pipelines and any other incapacities of either Party, whether similar to those enumerated or otherwise, and not within the reasonable control of the Party claiming such inability.

**C. Severability:** If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, provided that any invalid provisions are not deemed by the City or the Licensee to be material to the overall purpose and operation of this

Agreement. If the City or Licensee determines that the invalid provision is material, then, if the City has made such determination, the City shall have the option to terminate this Agreement. If the Licensee has made such determination, the Licensee shall have the option to terminate this Agreement. Such judgment or decree shall relieve the City and the Licensee from performance under such invalid provision of this Agreement.

**D. Entire Agreement:** This Agreement contains the entire agreement of the parties, and there are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement may be amended only by written agreement signed by the Parties.

**E. Governing Law, Jurisdiction & Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, as it applies to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The parties acknowledge that this Agreement is performable in El Paso County, Texas and hereby submit to the jurisdiction of the courts of that County, and hereby agree that any such Court shall be a proper forum for the determination of any dispute arising hereunder.

**F. No Third Party Beneficiary:** This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless expressly otherwise provided.

**G. Waiver:** Any failure by a party hereto to insist upon strict performance by the other party of any material provision of this Agreement shall not be deemed a waiver thereof or of any provision hereof, and such party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

**H. Incorporation of Exhibits and Other Documents by Reference:** All exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement.

**I. Headings:** The headings as to contents of particular articles or sections herein are inserted only for convenience, and they are in no way to be construed as a limitation on the scope of the particular articles or sections to which they refer.

**J. Ambiguities:** In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party on the basis that such party did or did not author the same.

K. **Counterparts:** It is understood and agreed that this Agreement may be executed in any number of counterparts; each shall be deemed an original for all purposes.

L. **Authority for Execution:** Each party hereby certifies, represents, and warrants that the execution of this Agreement has been duly authorized.

M. **Administration:** The Director is the principal City official responsible for the administration of this Agreement and Licensee recognizes that questions regarding the interpretation or application of this Agreement shall be referred to the Director or his designee.

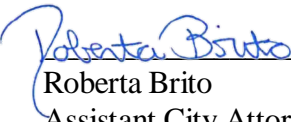
**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals and have caused this instrument to be executed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year first above written.

(Signatures begin on the following page)

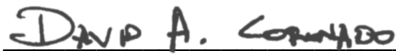
**THE CITY OF EL PASO**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

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

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
David Coronado, Managing Director  
Economic Development and  
International Bridges Department

**ACKNOWLEDGEMENT**

**THE STATE OF TEXAS    )**  
**COUNTY OF EL PASO    )**

This instrument is acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2022, by  
Tomás González as City Manager on behalf of the **CITY OF EL PASO.**

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Notary's Printed or Typed Name:

\_\_\_\_\_  
My Commission Expires:

**ACCEPTANCE**

The attached Agreement, with all conditions thereof, is hereby accepted this \_\_\_\_\_ day  
of \_\_\_\_\_, 2022.

**LICENSEE: AT&T Corp.**

**By:** \_\_\_\_\_

Name:

Title:

**ACKNOWLEDGEMENT**

**THE STATE OF TEXAS    )**

**COUNTY OF EL PASO    )**

This instrument is acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2022, by  
\_\_\_\_\_ as \_\_\_\_\_ on behalf of Licensee.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Notary's Printed or Typed Name:

\_\_\_\_\_  
My Commission Expires:

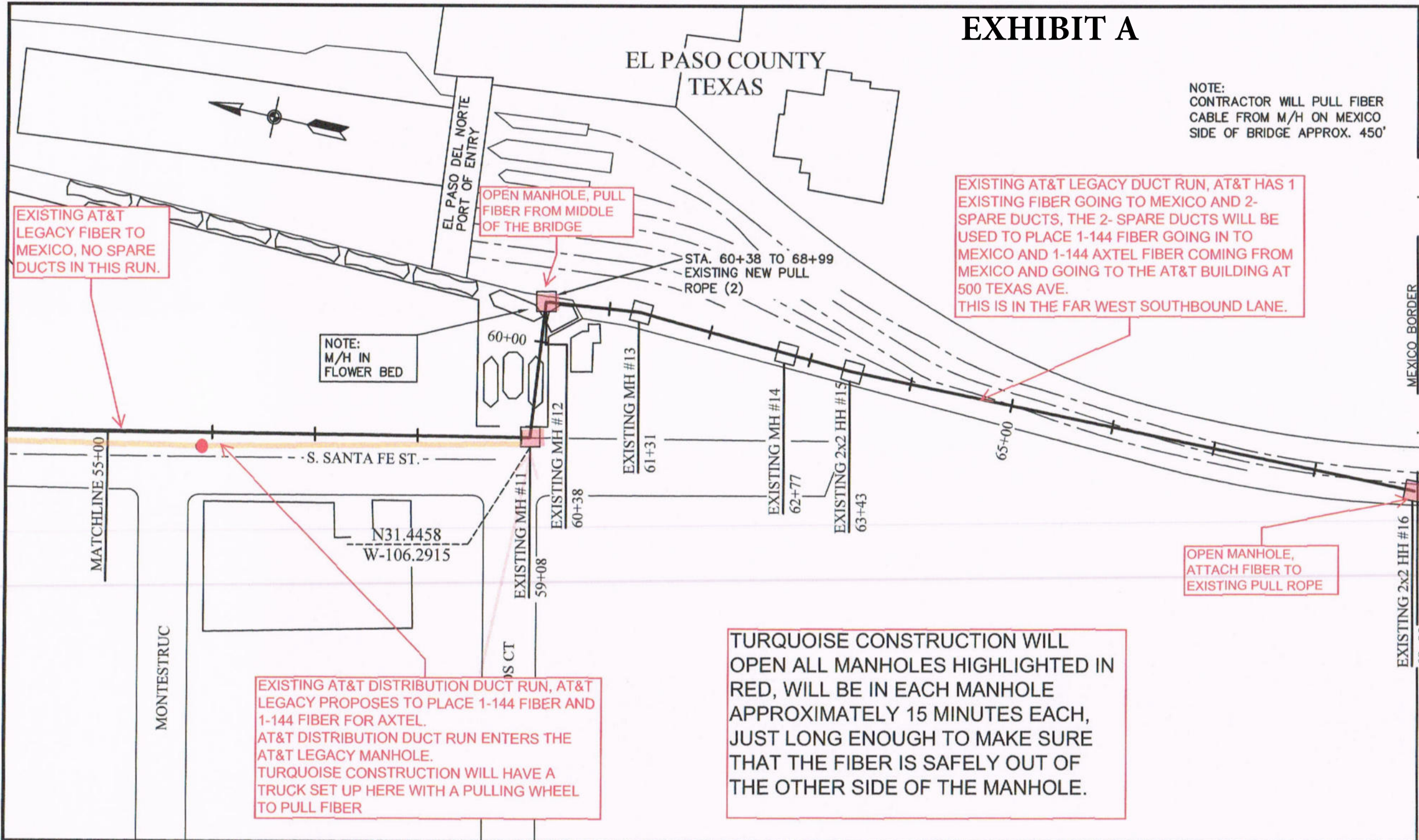
\_\_\_\_\_  
My Commission Expires:

# Exhibit A

## Infrastructure and City Property



EXHIBIT A



NOTE:  
CONTRACTOR WILL PULL FIBER  
CABLE FROM M/H ON MEXICO  
SIDE OF BRIDGE APPROX. 450'

EXISTING AT&T LEGACY DUCT RUN, AT&T HAS 1  
EXISTING FIBER GOING TO MEXICO AND 2-  
SPARE DUCTS, THE 2- SPARE DUCTS WILL BE  
USED TO PLACE 1-144 FIBER GOING IN TO  
MEXICO AND 1-144 AXTEL FIBER COMING FROM  
MEXICO AND GOING TO THE AT&T BUILDING AT  
500 TEXAS AVE.  
THIS IS IN THE FAR WEST SOUTHBOUND LANE.

OPEN MANHOLE, PULL  
FIBER FROM MIDDLE  
OF THE BRIDGE

EXISTING AT&T  
LEGACY FIBER TO  
MEXICO, NO SPARE  
DUCTS IN THIS RUN.

NOTE:  
M/H IN  
FLOWER BED

OPEN MANHOLE,  
ATTACH FIBER TO  
EXISTING PULL ROPE

EXISTING AT&T DISTRIBUTION DUCT RUN, AT&T  
LEGACY PROPOSES TO PLACE 1-144 FIBER AND  
1-144 FIBER FOR AXTEL.  
AT&T DISTRIBUTION DUCT RUN ENTERS THE  
AT&T LEGACY MANHOLE.  
TURQUOISE CONSTRUCTION WILL HAVE A  
TRUCK SET UP HERE WITH A PULLING WHEEL  
TO PULL FIBER

TURQUOISE CONSTRUCTION WILL  
OPEN ALL MANHOLES HIGHLIGHTED IN  
RED, WILL BE IN EACH MANHOLE  
APPROXIMATELY 15 MINUTES EACH,  
JUST LONG ENOUGH TO MAKE SURE  
THAT THE FIBER IS SAFELY OUT OF  
THE OTHER SIDE OF THE MANHOLE.

REVISIONS:  
1.

NOTES:

DISCLAIMER:

UTILITY LOCATIONS SHOWN ON THIS  
DRAWING ARE APPROXIMATE AND  
SHOULD NOT BE SOLELY RELIED  
UPON TO LOCATE UNDERGROUND  
FACILITIES. THE CONTRACTOR SHALL  
BE FULLY RESPONSIBLE FOR  
COMPLIANCE WITH STATEWIDE  
AND/OR LOCAL AREA "ONE CALL"  
PROGRAMS AND REQUIREMENTS.



PROPRIETARY  
USE PURSUANT TO COMPANY INSTRUCTIONS  
SPECIFICATION UNK1  
PROJECT NUMBER  
OWNERSHIP: N/A  
LINE CODE: N/A  
CABLE CLLI:

SCALE: 1" = 100'

EL PASO, TX  
TO MEXICO  
LIGHTGUIDE SYSTEM

CONSTRUCTION DRAWING

DN006

R/W WIDTH PERMITS		R/W WIDTH PERMITS	
TRENCH DETAILS		TRENCH DETAILS	
SEE DWG DN005 STA 55+00	EL PASO, TX		TO MEXICO
	MH#11	MH#12	MH#13
	55+00 TO 59+08 408'	59+08 TO 60+38 130'	60+38 TO 61+31 93'
	PULL THROUGH EXISTING DUCT 144' F.O.C. X2 30' SLACK COIL	PULL THROUGH EXISTING DUCT 144' F.O.C. X2 30' SLACK COIL	PULL THROUGH EXISTING DUCT 144' F.O.C. X2
		MH#14	MH#15
		61+31 TO 62+77 146'	62+77 TO 63+43 66'
		PULL THROUGH EXISTING DUCT 144' F.O.C. X2	PULL THROUGH EXISTING DUCT 144' F.O.C. X2
		2X2 MH#15	2X2 MH#16
		63+43 TO 68+99 556'	PULL THROUGH EXISTING DUCT 144' F.O.C. X2



Legislation Text

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File #: 22-1110, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 3**

Airport, Sam Rodriguez, (915) 212-7301

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Resolution to authorize the City Manager to sign a Seventh Amendment and Lessor's Approval of Assignment of the Golf Course Operation and Concession Agreement by and among the City of El Paso ("Lessor"), Bueno Investments, Inc ("Assignor") and EP GolfCo, LLC ("Assignee") for the following described property: A portion of Morehouse Survey No. 12 and a portion of Section 40, Block 80 TSP 2 T&P Survey, City of El Paso, El Paso County, Texas, municipally known as Lone Star Golf Club (f/k/a/ Cielo Vista Golf Course) located at 1510 Hawkins Blvd., El Paso Texas.



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

**DEPARTMENT:** Aviation

**AGENDA DATE:** August 30, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:** Sam Rodriguez, Director of Aviation, (915) 212-7301

**DISTRICT(S) AFFECTED:** District 3

**CITY STRATEGIC GOAL 1:** Create an Environment Conducive to Strong, Sustainable Economic Development.

**SUBJECT:**

Resolution to authorize the City Manager to sign a Seventh Amendment and Lessor's Approval of Assignment of the Golf Course Operation and Concession Agreement by and among the City of El Paso ("Lessor"), Bueno Investments, Inc ("Assignor") and EP GolfCo, LLC ("Assignee") for the following described property: A portion of Morehouse Survey No. 12 and a portion of Section 40, Block 80 TSP 2 T&P Survey, City of El Paso, El Paso County, Texas, municipally known as Lone Star Golf Club (f/k/a/ Cielo Vista Golf Course) located at 1510 Hawkins Blvd., El Paso Texas.

**BACKGROUND / DISCUSSION:**

The Department of Aviation requests the approval of this Seventh Amendment and Lessor's Approval of Assignment to allow the transfer of rights and obligations possessed by Bueno Investments, Inc to EP GolfCo, LLC. In addition, this request amends the option term to allow the Concessionaire to extend the agreement to March 31, 2035.

**PRIOR COUNCIL ACTION:**

January 1, 2009 - Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), Golf Management, Inc. ("Assignor"), and Bueno Investments, Inc. ("Assignee").

March 3, 2009 – First Amendment to Lessor's Approval of Assignment.

January 1, 2012 – Second Amendment to Lessor's Approval of Assignment.

March 12, 2013 – Sixth Amendment to Golf Course Operation and Concession Agreement.

**AMOUNT AND SOURCE OF FUNDING:**

N/A: This is a revenue generating item.

**BOARD / COMMISSION ACTION:**

N/A

**DEPARTMENT HEAD:**

  
Sam Rodriguez, P.E.

Chief Operations & Transportation Officer/Director of Aviation

## RESOLUTION

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

That the City Manager be authorized to sign a Seventh Amendment and Lessor's Approval of Assignment of the Golf Course Operation and Concession Agreement by and among the City of El Paso ("Lessor"), Bueno Investments, Inc. ("Assignor") and EP GolfCo LLC ("Assignee") for the following described property:

A portion of Morehouse Survey No. 12 and a portion of Section 40, Block 80 TSP 2 T&P Survey, City of El Paso, El Paso County, Texas, municipally known as Lone Star Golf Club (f/k/a/ Cielo Vista Golf Course) located at 1510 Hawkins Blvd., El Paso Texas.

ADOPTED this the \_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO

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

### ATTEST:

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

### APPROVED AS TO FORM:

\_\_\_\_\_  
Leslie B. Jean-Pierre  
Assistant City Attorney

### APPROVED AS TO CONTENT:

\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

STATE OF TEXAS           §       SEVENTH AMENDMENT TO GOLF COURSE  
                                   §       OPERATIONS AND CONCESSION AGREEMENT  
 COUNTY OF EL PASO     §       AND LESSOR'S APPROVAL OF ASSIGNMENT

**WHEREAS**, the City of El Paso ("Lessor") entered into a Golf Course Operation and Concession Agreement ("Concession Agreement") dated April 1, 1985 between the Lessor and John William Echenbrenner, for the property legally described as:

A portion of Morehouse Survey No. 12 and a portion of Section 40, Block 80 TSP 2 T&P Survey, City of El Paso, El Paso County, Texas, being more particularly described in **EXHIBIT A**, attached hereto and made a part hereof, and municipally known as Lone Star Golf Club (f/k/a/ Cielo Vista Golf Course) located at 1510 Hawkins Blvd., El Paso Texas ("Premises").

**WHEREAS**, the Concession Agreement was subsequently assigned to Golf Management, Inc. pursuant to Section 11 of the Concession Agreement;

**WHEREAS**, effective April 1, 1991, the Concession Agreement amended by the execution of the First Amendment to the Concession Agreement;

**WHEREAS**, effective June 1, 2000, the Concession Agreement was further amended by execution of the Second Amendment;

**WHEREAS**, effective April 30, 2002, the Concession Agreement was further amended by the execution of the Third Amendment;

**WHEREAS**, effective August 9, 2004, the Concession Agreement was further amended by the execution of the Fourth Amendment;

**WHEREAS**, effective September 8, 2008, the Concession Agreement was further amended by the execution of the Fifth Amendment; and

**WHEREAS**, effective January 1, 2009, the Concession Agreement was subsequently assigned from Golf Management, Inc. to Assignee Bueno Investments, Inc. (as "Assignor" herein below); and

**WHEREAS**, effective March 3, 2009, the Concession Agreement was further amended by the execution of the First Amendment to Lessor's Approval of Assignment; and

**WHEREAS**, effective December 11, 2011, the Concession Agreement was further amended by the execution of the Second Amendment to Lessor's Approval of Assignment; and

**WHEREAS**, effective March 12, 2013, the Concession Agreement was further amended by the execution of the Sixth Amendment; and

LESSOR'S APPROVAL OF ASSIGNMENT & 7<sup>TH</sup> AMENDMENT  
 22-1003-1301/1185622.4/1510 Hawkins Blvd//Bueno Investments, Inc. to EP GolfCo LLC/LBJ

**WHEREAS**, the parties now desire to agree to a Seventh Amendment to the Concession Agreement to increase the one (1) final option term from five (5) years to nine (9) years; and

**WHEREAS**, Assignor now desires to assign its interest in the Concession Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **RENEWAL OPTION.** Concessionaire is hereby granted one (1) final option, provided that Concessionaire is not then in default, to extend the existing term of the Concession Agreement, for one (1) additional term of nine (9) years, such option term, if exercised, to expire on March 31, 2035. To exercise such option right, Concessionaire must notify City in writing of Concessionaire's election to exercise such option at least one hundred and twenty (120) days prior to the inception of such option. In the event Concessionaire exercises such option, the Concession Agreement shall be extended upon the same terms and conditions.
2. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to EP GolfCo LLC (as "Assignee" herein below), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.
3. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.
4. **SECURITY DEPOSIT.** Assignee shall, as of the effective date of the assignment, enjoy all rights and privileges and be responsible for satisfying all such obligations the same as if the Lease had originally been executed between Lessor and Assignee. Provided, however, Assignee shall tender to Lessor an irrevocable letter of credit, or a rental bond or other surety acceptable to the Director of Aviation ("Security Deposit") in an amount equal to three (3) months of Rent to guarantee the faithful performance of Assignee of its obligations under this Lease and the payment of all Rents due hereunder. Assignee shall be obligated to maintain such Security Deposit in effect until the expiration of eighteen (18) consecutive months from the Effective Date of this Lessor's approval of Assignment. Within thirty (30) days after expiration of such eighteen (18) month period and if no Event of Default by Assignee has occurred, Lessor will return the Security Deposit to Assignee.

5. **RATIFICATION OF LEASE.** Except as expressly modified herein, no provision of this consent alters or modifies any of the terms and conditions of the Lease; all other terms and conditions of the Lease shall remain in full force and effect.
6. **ADDRESS FOR NOTICE.** Notices to Assignee shall be sufficient if sent by certified mail, postage prepaid, addressed to:
- ASSIGNOR:** Bueno Investments, Inc.  
7500 Viscount, Suite 202  
El Paso, Texas 79935  
Attention: Benjamin A. Vanecek
- ASSIGNEE:** EP GolfCo LLC  
P.O. Box 3157  
El Paso, Texas 79923-3157  
Attn: William C. Collins, Manager
7. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignee and Assignor represent and warrant that they have the authority legally to bind the Assignee and Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.
8. **NON-WAIVER.** This Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
9. **EFFECTIVE DATE.** The Effective Date of this Lessor's Approval of Assignment will be the date this document is signed by the City of El Paso.
10. **COUNTERPARTS.** This Lessor's Approval of Assignment may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, and all of which shall constitute one and the same instrument as if all parties had signed the same signature page.

***[Signatures Begin on the Following Page]***

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**LESSOR: CITY OF EL PASO**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Leslie B. Jean-Pierre  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

**LESSOR'S ACKNOWLEDGEMENT**

THE STATE OF TEXAS   )  
  )  
COUNTY OF EL PASO   )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
by Tomás González as City Manager of the City of El Paso, Texas. (Lessor)

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Texas

*[Signatures Continue on the Following Page]*

LESSOR'S APPROVAL OF ASSIGNMENT & 7<sup>TH</sup> AMENDMENT  
22-1003-1301/1185622.4/1510 Hawkins Blvd//Bucno Investments, Inc. to EP GolfCo LLC/LBJ



ASSIGNEE: EP GOLFCO LLC, a Texas limited liability company

By: 

William C. Collins, Manager

### ASSIGNEE'S ACKNOWLEDGEMENT

THE STATE OF Texas )

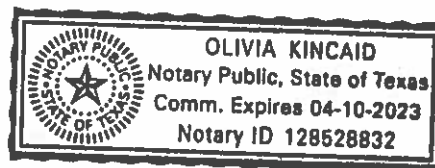
COUNTY OF El Paso )

August, 2022, This instrument was acknowledged before me on this 12<sup>th</sup> day of August, 2022, by William C. Collins, as Manager of EP GolfCo LLC (Assignee)

My Commission Expires:

4/10/2023


  
Notary Public, State of Texas



LESSOR'S APPROVAL OF ASSIGNMENT & 7<sup>TH</sup> AMENDMENT

22-1003-1301/1185622.4/1510 Hawkins Blvd/Bueno Investments, Inc. to EP GolfCo LLC/LBJ

ASSIGNOR:  
BUENO INVESTMENTS, INC.

  
Printed Name: BENJAMIN VANECEK  
Title: OWNER

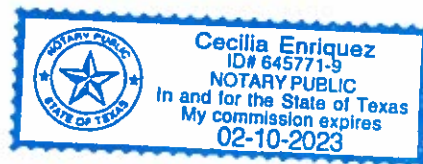
ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF Texas )  
COUNTY OF El Paso )

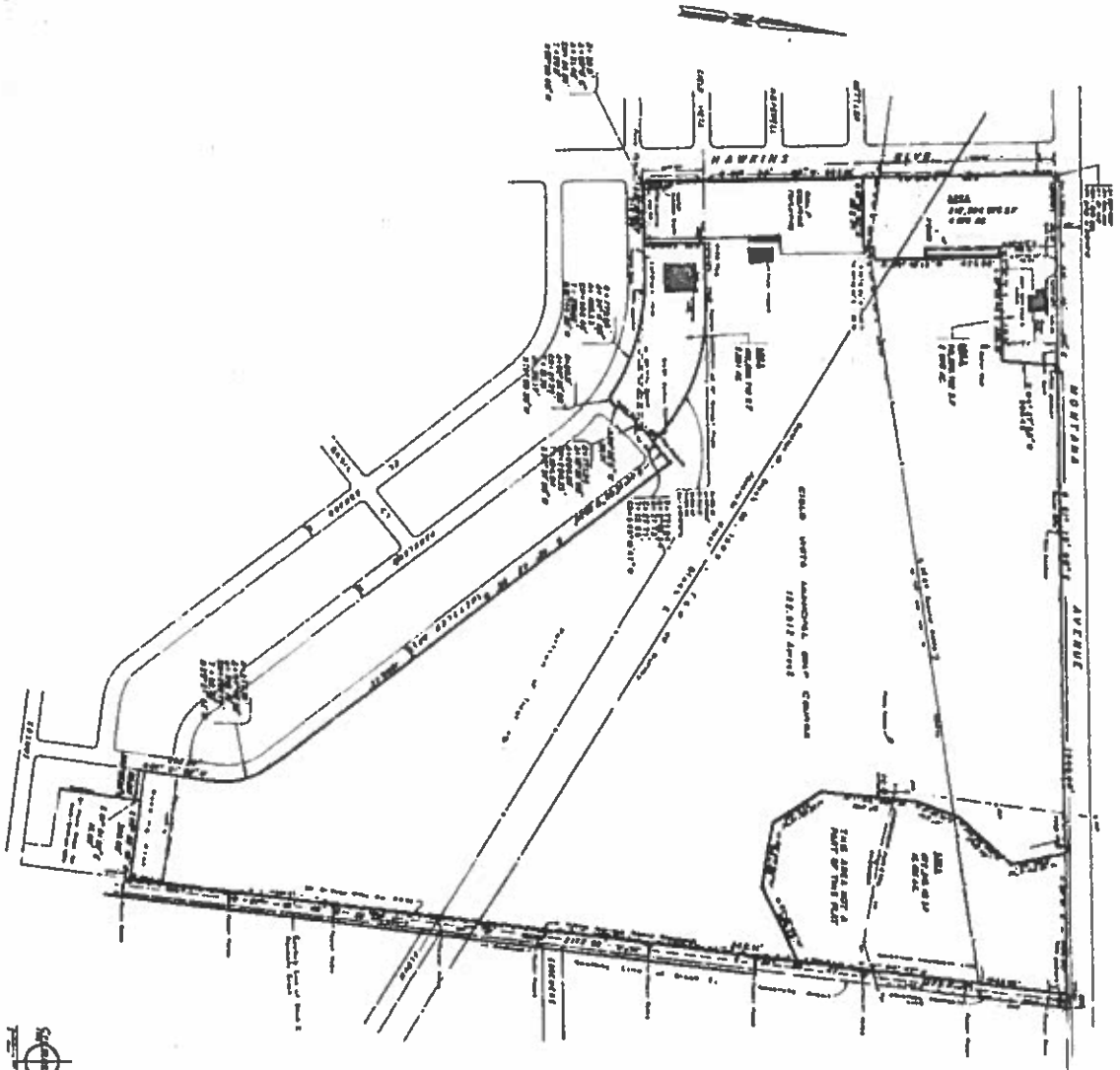
This instrument was acknowledged before me on this 18 day of August, 2022, by Benjamin Vanecer as owner of Bueno Investments, Inc. (Assignor).

  
Notary Public, State of Texas

My Commission Expires:  
2-10-23



[Signatures Continue on the Following Page]



**PLAT**  
**CIELO VISTA MUNICIPAL GOLF COURSE**  
**EL PASO INTERNATIONAL AIRPORT**

APRIL 17, 1954

SCALE 1"=100'

EXHIBIT  
**A**

- AREAS WITH PROPERTIES**
- 1. 100' FRONT, INCLUDING TAILING LOT, 427' 00" DEPTH
  - 2. 100' FRONT, 52' 00" DEPTH OF
  - 3. 100' FRONT, 52' 00" DEPTH OF
  - 4. 100' FRONT, 52' 00" DEPTH OF
  - 5. 100' FRONT, 52' 00" DEPTH OF
  - 6. 100' FRONT, 52' 00" DEPTH OF
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  - 99. 100' FRONT, 52' 00" DEPTH OF
  - 100. 100' FRONT, 52' 00" DEPTH OF



Legislation Text

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File #: 22-986, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Fire, Interim Chief Jonathan Killings, (915) 212-5665

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the Mayor be authorized to sign an Interlocal Cooperation Agreement (the "Agreement") between the City of El Paso, Texas ("City") and the Ysleta del Sur Pueblo ("Pueblo") to facilitate fire and emergency response during emergency conditions occurring within the City or the Pueblo, to expire on August 31, 2022, or as extended through automatic renewal through 2027.

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

**DEPARTMENT:** El Paso Fire Department

**AGENDA DATE:** August 30, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:** Interim Chief Jonathan Killings, (915) 212-5665

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 2: Set the Standard for a Safe and Secure City

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

THAT the Mayor be authorized to sign an Interlocal Cooperation Agreement (the "Agreement") between the City of El Paso, Texas ("City") and the Ysleta del Sur Pueblo ("Pueblo") to facilitate fire and emergency response during emergency conditions occurring within the City or the Pueblo, to expire on August 31, 2022, or as extended through automatic renewal through 2027.

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

This Interlocal Agreement allow for the continuance of providing emergency response mutual aid and combined training between the City of El Paso and Ysleta del Sur Pueblo. This is necessary for the safety and general welfare of the citizens in both jurisdictions.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

On October 6, 2015, the City Council approved the agreement.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

None

---

\*\*\*\*\*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 be authorized to sign an Interlocal Cooperation Agreement (the “Agreement”) between the City of El Paso, Texas (“City”) and the Ysleta del Sur Pueblo (“Pueblo”) to facilitate fire and emergency response during emergency conditions occurring within the City or the Pueblo, to expire on August 31, 2022, or as extended through automatic renewal through 2027.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2022.

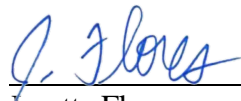
CITY OF EL PASO

\_\_\_\_\_  
Oscar Leoser  
Mayor


ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Jonathan P. Killings, Interim Fire Chief  
Fire Department

**INTERLOCAL COOPERATION AGREEMENT  
BETWEEN THE CITY OF EL PASO, TEXAS, AND  
THE YSLETA DEL SUR PUEBLO**

This Agreement by and between the City of El Paso, Texas, hereinafter referred to as "City" and the Ysleta del Sur Pueblo, hereinafter referred to as "Pueblo" is made in duplicate as of the date last executed by a party hereto.

**WHEREAS** the City is a home rule municipality located in El Paso County, Texas; and

**WHEREAS** the City is authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government Code § 791.001 et seq., (the Act) which authorizes local governments to contract with a federally recognized Indian tribe having its reservation within the limits of the State of Texas; and

**WHEREAS** the Pueblo is a federally recognized Indian tribe whose reservation is located wholly within the County of El Paso which is within the limits of the State of Texas; and

**WHEREAS** the City and the Pueblo believe their residents would mutually benefit from a cooperative agreement between the parties to facilitate fire and emergency response during emergency conditions occurring within the City or the Pueblo to include mutual aid in fire prevention, firefighting and protecting property from fire, training activities, responses to incidents involving weapons of mass destruction, hazardous materials, medical emergencies, and special rescues.

**NOW THEREFORE**, the City and the Pueblo, in consideration of the mutual covenants and reliance on the representations herein expressed, agree as follow:

1. If an emergency situation arises on the Pueblo's reservation, a call for mutual aid assistance shall be made by the Incident Commander for the Pueblo or designee to the City of El Paso Fire Department. Pending approval by the on duty Deputy Chief or acting Deputy Chief of the El Paso Fire Department, the City shall dispatch and provide firefighting equipment and personnel pursuant to the same policies and practices and in the same manner as the City would provide services within the City's own jurisdiction to any point within the jurisdiction of the Pueblo.
2. On request to the Pueblo's Fire Chief or its designee by the on duty Deputy Chief or acting Deputy Chief of the El Paso Fire Department, the Pueblo shall dispatch and provide firefighting equipment and personnel pursuant to the same policies and practices and in the same manner as the Pueblo would provide services within its own jurisdiction to any point within the response jurisdiction of the El Paso Fire Department.
3. The rendering of assistance under the terms of this Agreement shall not be mandatory, but the party receiving the request for assistance should immediately inform the requesting department if, for any reason, if assistance cannot be rendered.



4. Any request for aid under this Agreement will specify the location to which the equipment and personnel are to be dispatched; however, the amount and type of equipment and number or personnel to be furnished will be determined by a representative of the responding organization.
5. The City and the Pueblo, when responding to a mutual aid request, shall adhere to the Incident Command System. An Incident Command System (ICS), appropriate to the nature of the emergency will be implemented by the Pueblo.
6. The responding aid unit will report to the officer in charge of the requesting organization at the location to which the equipment is dispatched, and a unified command structure will be established if one is not in place.
7. Nothing in this Agreement shall be construed to require either entity to purchase additional equipment, acquire additional personnel, or otherwise increase or enhance its response capabilities.
8. Any reimbursement to which the City shall be entitled for any part of the cost, or expenses incurred by it in furnishing aid on the Pueblo's reservation, may be recoverable from the federal government by the City under 15 U.S.C. § 2210. While such reimbursement shall not be recoverable from the Pueblo itself, the Pueblo shall cooperate with the City in the City's reimbursement claim submitted to the federal government. Such cooperation shall include, but not be limited to the Pueblo providing the City with any and all paperwork and documents detailing the emergency situation to the extent possible, including the City's firefighting assistance, for which the City is seeking reimbursement.
9. Unless otherwise terminated hereunder, the initial term of this Agreement shall commence on the effective date of this Agreement and shall expire on August 31, 2022. If this Agreement is not terminated as provided herein on or before the expiration date above, it shall automatically renew for consecutive one-year terms, beginning on September 1<sup>st</sup> of each year thereafter and ending on August 31<sup>st</sup> of each year thereafter until 2027 at which time this Agreement shall expire and the automatic renewal period shall cease.
10. This Agreement may be terminated for convenience by either party providing thirty (30) days written notice to the other party. Either Party may terminate this Agreement for cause by sending a sixty (60) days written notice to the other Party. Termination shall be without prejudice to any obligation by one party to the other which shall have accrued and be owing prior thereto. The terminating Party shall provide written notice setting forth the reason(s) for termination to the non-terminating Party, and the latter shall have a thirty (30) day cure period which shall begin as of the date of receipt of the notice. If the non-terminating Party fails to cure within the thirty (30) day period, the Agreement shall terminate.
11. Each party shall be solely responsible for fiscal or other sanctions, penalties, or fines occasioned as a result of its own violations or requirements applicable to performance under this Agreement.



12. The parties expressly waive all claims against each other for compensation or any property loss, damage, personal injury or death occurring as a result of the performance under this Agreement.
13. Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement.
14. Any liability incurred in connection with the Agreement is subject to the immunities and limitation of the Texas Tort Claims Act or other applicable laws.
15. The execution and performance of this Agreement by each of the parties has been duly authorized by all necessary law, resolutions, ordinances or government body action, and this Agreement constitutes the valid and enforceable obligations of the parties hereto in accordance with its terms.
16. This Agreement contains the entire contract among the parties hereto, and each party acknowledges that no other party has made, either directly or through any agent or representative, any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended by agreement in writing executed by the City and Pueblo.
17. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in El Paso County, Texas.
18. All notices, demands and requests, including invoices which may be given or which are required to be given by either Party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective when: (i) personally delivered to the intended recipient; (ii) three (3) days after being sent by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; (iii) delivered in person to the address set forth below for the Party to whom the notice was given; (iv) deposited into the custody of a recognized overnight delivery service such as Federal Express Corporation, addressed to such Party at the address specified below; or (v) sent by facsimile, telegram or telex, provided that receipt for such facsimile, telegram or telex is verified by the sender and followed by a notice sent in accordance with one of the other provisions set forth above. For purposes of this section, the addresses of the Parties for all notices are as follows (unless changed by similar notice in writing given by the particular person whose address is changing):

**CITY OF EL PASO**

Attention: City Manager  
P.O. Box 1890  
El Paso, Texas 79950-1890

**COPY TO:**

Attention: City of El Paso Fire Department, Fire Chief  
416 N. Stanton, Suite 200  
El Paso, Texas 79901

**YSLETA DEL SUR PUEBLO**

Attention: Tribal Governor  
Ysleta del Sur Pueblo  
119 South Old Pueblo Road  
Ysleta del Sur Pueblo, Texas 79907

**COPY TO:**

Attention: Tribal Fire Chief  
Ysleta del Sur Pueblo  
119 South Old Pueblo Road  
Ysleta del Sur Pueblo, Texas 79907

19. **No Third Party Beneficiaries.** No term or provision of this Agreement is intended to, or shall, create any rights in any person, firm, corporation, or other entity not a party hereto, and no such person or entity shall have any cause of action hereunder.
20. **No Other Relationship.** No term or provision in this Agreement is intended to create a partnership, joint venture, or agency arrangement between any of the Parties.
21. **Current Revenues.** Pursuant to Section 791.011(d)(3) of the Texas Government Code, each Party performing services or furnishing aid pursuant to this Agreement shall do so with funds available from current revenues of the Party. No Party shall have any liability for the failure to expend funds to provide aid hereunder.
22. **Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, no failure, delay or default in performance of any obligation hereunder shall constitute an event of default or a breach of this Agreement if such failure to perform, delay or default arises out of causes beyond the control and without the fault or negligence of the Party otherwise chargeable with failure, delay or default; including but not limited to acts of God, acts of public enemy, civil war, insurrection, riots, fires, floods, explosion, theft, earthquakes, natural disasters or other casualties, strikes or other labor troubles, which in any way restrict the performance under this Agreement by the Parties.
23. **Approval.** This Agreement has been duly and properly approved by each Party's governing body and constitutes a binding obligation on each Party.
24. **Assignment.** Except as otherwise provided in this Agreement, a Party may not assign this Agreement or subcontract the performance of services without first obtaining the written consent of the other Party.



25. **Non-Waiver.** A Party's failure or delay to exercise a right or remedy does not constitute a waiver of the right or remedy. An exercise of a right or remedy under this Agreement does not preclude the exercise of another right or remedy. Rights and remedies under this Agreement are cumulative and are not exclusive of other rights or remedies provided by law.
26. **Paragraph Headings.** The various paragraph headings are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this Agreement or any section thereof.
27. **Severability.** The Parties agree that in the event any provision of this Agreement is declared invalid by a court of competent jurisdiction that part of the Agreement is severable and the decree shall not affect the remainder of the Agreement. The remainder of the Agreement shall be and continue in full force and effect.
28. **Counterparts.** This Agreement may be executed in multiple counterparts which, when taken together, shall be considered as one original.
29. **Effective Date.** This Agreement is made to be effective on the latest date accompanying the signatures below.

[SIGNATURE PAGE FOLLOWS]

WITNESS THE HAND OF THE PARTIES HERETO:

THE CITY OF EL PASO

YSLETA DEL SUR PUEBLO

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

\_\_\_\_\_  
E. Michael Silvas  
Governor

Date: \_\_\_\_\_

Date: FEB. 25, 2022

ATTEST:

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

\_\_\_\_\_  
Lory Granillo  
Tribal Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

\_\_\_\_\_  
Ronald L. Jackson  
Tribal Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Jonathan P. Killings Interim Fire Chief  
Fire Chief

\_\_\_\_\_  
Steve Cordova  
Tribal Fire Chief



Legislation Text

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File #: 22-987, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Fire, Interim Chief Jonathan Killings, (915) 212-5665

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the Mayor be authorized to sign an Interlocal Cooperation Agreement (the "Agreement") between the City of El Paso, Texas ("City") and the El Paso County Emergency Services District No. 1 ("District") to provide fire and emergency response during emergency conditions occurring within the City or the District, to expire on September 30, 2022, or as extended through automatic renewal through 2027.

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

**DEPARTMENT:** El Paso Fire Department

**AGENDA DATE:** August 30, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:** Interim Chief Jonathan Killings, (915) 212-5665

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 2: Set the Standard for a Safe and Secure City

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

THAT the Mayor be authorized to sign an Interlocal Cooperation Agreement (the "Agreement") between the City of El Paso, Texas ("City") and the El Paso County Emergency Services District No. 1 ("District") to provide fire and emergency response during emergency conditions occurring within the City or the District, expired on September 30, 2022, or as extended through automatic renewal through 2027.

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

This Interlocal Agreement allow for the continuance of providing emergency response mutual aid and combined training between the City of El Paso and El Paso County Emergency Services District No. 1. This is necessary for the safety and general welfare of the citizens in both jurisdictions.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

On October 6, 2015, the City Council approved the agreement.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

None

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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 be authorized to sign an Interlocal Agreement (the “Agreement”) between the City of El Paso, Texas (“City”) and the El Paso County Emergency Services District No. 1 (“District”) to provide fire and emergency response during emergency conditions occurring within the City or the District, to expire on September 30, 2022, or as extended through automatic renewal through 2027.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2022.

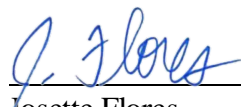
CITY OF EL PASO:

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

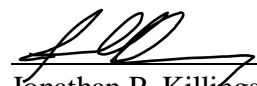
ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Jonathan P. Killings, Interim Fire Chief  
Fire Department

**THE STATE OF TEXAS**

§

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**COUNTY OF EL PASO**

§

**INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF EL PASO,  
TEXAS AND THE EL PASO COUNTY EMERGENCY SERVICES DISTRICT NO. 1**

This Interlocal Agreement ("Agreement") is made and entered into by and between the City of El Paso, Texas (hereinafter referred to as "City") and the EL PASO COUNTY EMERGENCY SERVICES DISTRICT NO. 1 (hereinafter referred to as "District"), both of which are political subdivisions of the State of Texas, pursuant to the provisions of the Texas Interlocal Cooperation Act.

**WHEREAS**, the City is a home rule municipality located in El Paso County, Texas; and

**WHEREAS**, the District is an Emergency Services District in the State of Texas; and

**WHEREAS**, Texas Government Code, Chapter 791, Texas Interlocal Cooperation Act, Sections 791.003(3)(B), (D), (K), and (N), and 791.003(4)(A) allow local governments, including special districts, to contract with one another to perform governmental functions and services, including fire protection and other governmental functions in which the contracting parties are mutually interested; and

**WHEREAS**, the City and the District, each pursuant to its statutory and constitutional authority, are responsible for fire and emergency response, and are desirous that the necessary agreements be entered into by and between the parties to facilitate assistance between the parties during emergency conditions occurring within the City and District; and

**WHEREAS**, the City and District believe that a cooperative agreement between the parties would provide a mutual benefit to residents of both the City and District; and

**WHEREAS**, the City and District are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government Code 791.001 et seq., (the "Act") and Chapter 775 Texas Health and Safety Code, which authorizes local governments to contract with each other to perform governmental functions and services under the terms of the Act.

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

**I. PURPOSE**

The purpose of this Interlocal Agreement is to provide for the City and the District mutual aid in fire prevention to include investigations, training activities, response to incidents involving weapons of mass destruction, hazardous materials, medical emergencies, special rescue emergencies and property from fire and firefighting. This Agreement is not intended to modify or amend any currently existing Interlocal



Agreements between the District and the City and the terms and conditions set forth in any such agreement shall remain in full force and effect.

## **II. TERM**

Unless otherwise terminated hereunder, the initial term of this Agreement shall commence on the effective date of this Agreement and shall expire on September 30, 2022. If this Agreement is not terminated as provided herein on or before the expiration date above, it shall automatically renew for consecutive one-year terms, beginning on October 1<sup>st</sup> of each year thereafter and ending on September 30<sup>th</sup> of each year thereafter until 2027 at which time this Agreement shall expire and the automatic renewal period shall cease.

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

Upon the request by the Incident Commander or designated representative of the District, the City shall dispatch and provide firefighting equipment and personnel pursuant to the same policies and practices and in the same manner as the City would provide services within the City's own jurisdiction to any point within the firefighting jurisdiction of the District.

## **IV. OBLIGATIONS OF THE DISTRICT**

Upon the request by the City by and through the El Paso Fire Department, the District shall dispatch and provide firefighting equipment and personnel pursuant to the same policies and practices and in the same manner as the District would provide services within the District's own jurisdiction to any point within the area for which the El Paso Fire Department provides fire protection.

## **V. MUTUAL OBLIGATIONS OF THE PARTIES**

The rendering of assistance under the terms of this Agreement shall not be mandatory. The party receiving the request for assistance should immediately inform the requesting party if the assistance cannot be rendered when requested.

Any request for aid under this Agreement will specify the location to which the equipment and personnel are to be dispatched. The amount and type of equipment and the number of personnel to be furnished will be determined solely by the responding party.

The responding party will report to the officer in charge of the requesting party at the location to which the equipment is dispatched, and a unified command structure will be established if one is not already in place.

Nothing in this Agreement shall be construed to require either party to purchase additional equipment, acquire additional personnel, or otherwise increase or enhance its response capabilities.

## **VI. REIMBURSEMENT**

The responding party shall not be entitled to reimbursement from the requesting party for all or any part of the costs or expenses incurred by such party in furnishing mutual aid pursuant to this Agreement outside of the responding party's jurisdiction. However, either party may seek to recover its own costs from those individuals or entities who are responsible for the emergency.

## **VII. LIABILITY**

Each party shall be solely responsible for fiscal penalties, fines or any other sanctions occasioned as a result of a finding that violations of any applicable local, state or federal regulations, codes or laws occurred as a result of that party's actions. Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement.

The parties expressly agree that, in the execution of this Agreement, neither party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its powers or functions or pursuant to the Texas Tort Claims Act or other applicable statutes, laws, rules, or regulations.

## **VIII. TERMINATION**

This Agreement may be terminated for convenience by either party providing thirty (30) days written notice to the other party. Either party may terminate this Agreement for cause by sending a sixty (60) days written notice to the other party. Termination shall be without prejudice to any obligation by one party to the other which shall have accrued and be owing prior thereto. The terminating party shall provide written notice setting forth the reason(s) for termination to the non-terminating party, and the latter shall have a thirty (30) day cure period which shall begin as of the date of receipt of the notice. If the non-terminating party fails to cure within the thirty (30) day period, the Agreement shall terminate.

## **IX. MODIFICATION OF AGREEMENT**

This Agreement contains the entire contract among the parties hereto, and each party acknowledges that no other party has made, either directly or through any agent or representative, any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended by agreement in writing executed by the City and District.

## **X. APPLICABLE LAW**

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in El Paso County, Texas.

## **XI. NOTICE**

All notices, demands and requests, including invoices which may be given or which are required to be given by either party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective when: (i) personally delivered to the intended recipient; (ii) three (3) days after being sent by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; (iii) delivered in person to the address set forth below for the party to whom the notice was given; (iv) deposited into the custody of a recognized overnight delivery service such as Federal Express Corporation, addressed to such party at the address specified below; or (v) sent by facsimile, telegram or telex, provided that receipt for such facsimile, telegram or telex is verified by the sender and followed by a notice sent in accordance with one of the other provisions set forth above. For purposes of this section, the addresses of the parties for all notices are as follows (unless changed by similar notice in writing given by the particular person whose address is changes):

### **CITY OF EL PASO**

Attention: City Manager  
P.O. Box 1890  
El Paso, Texas 79950-1890

### **COPY TO:**

Attention: City of El Paso Fire Department, Fire Chief  
416 N. Stanton, Suite 200  
El Paso, Texas 79901

### **EL PASO COUNTY EMERGENCY SERVICES DISTRICT NO. 1**

Attention: Local Emergency Services Board President  
El Paso County Emergency Services District No. 1  
14151 Nunda Ave.  
Horizon City, Texas 79928

## **XII. MISCELLANEOUS PROVISIONS**

**No Third Party Beneficiaries.** No term or provision of this Agreement is intended to, or shall, create any rights in any person, firm, corporation, or other entity not a party hereto, and no such person or entity shall have any cause of action hereunder.

**No Other Relationship.** No term or provision in this Agreement is intended to create a partnership, joint venture, or agency arrangement between any of the parties.

**Current Revenues.** Pursuant to Section 791.011(d)(3) of the Texas Government Code, each party performing services or furnishing aid pursuant to this Agreement shall do so with funds available from current revenues of the party. No party shall have any liability for the failure to expend funds to provide aid hereunder.

**Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, no failure, delay or default in performance of any obligation hereunder shall constitute an event of default or a breach of this Agreement if such failure to perform, delay or default arises out of causes beyond the control and without the fault or negligence of the party otherwise chargeable with failure, delay or default; including but not limited to acts of God, acts of public enemy, civil war, insurrection, riots, fires, floods, explosion, theft, earthquakes, natural disasters or other casualties, strikes or other labor troubles, which in any way restrict the performance under this Agreement by the parties.

**Approval.** This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.

**Assignment.** Except as otherwise provided in this Agreement, a party may not assign this Agreement or subcontract the performance of services without first obtaining the written consent of the other party.

**Non-Waiver.** A party's failure or delay to exercise a right or remedy does not constitute a waiver of the right or remedy. An exercise of a right or remedy under this Agreement does not preclude the exercise of another right or remedy. Rights and remedies under this Agreement are cumulative and are not exclusive of other rights or remedies provided by law.

**Paragraph Headings.** The various paragraph headings are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this Agreement or any section thereof.

**Severability.** The parties agree that in the event any provision of this Agreement is declared invalid by a court of competent jurisdiction that part of the Agreement is severable and the decree shall not affect the remainder of the Agreement. The remainder of the Agreement shall be and continue in full force and effect.

**Open Meetings Act.** The parties hereby represent and affirm that this Agreement was adopted in an open meeting held in compliance with the Texas Open Meetings Act (Tex. Gov. Code, Ch. 551), as amended.

**Counterparts.** This Agreement may be executed in multiple counterparts which, when taken together, shall be considered as one original.

**Effective Date.** This Agreement is made to be effective on the latest date accompanying the signatures below.

*(SIGNATURES APPEAR ON FOLLOWING PAGE)*

**THE STATE OF TEXAS**

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**COUNTY OF EL PASO**

Signature page for the City of El Paso, Interlocal Cooperation Agreement between the City of El Paso, Texas and the El Paso County Emergency Services District No. 1.

**APPROVED** by the City Council, El Paso, Texas in its meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2022 and executed by its authorized representative.

CITY OF EL PASO:

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


ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Jonathan P. Killings, Interim Fire Chief  
Fire Department

THE STATE OF TEXAS

§

§

COUNTY OF EL PASO

§

Signature page for the El Paso County Emergency Services District No. 1, Interlocal Cooperation Agreement between the City of El Paso, Texas and the El Paso County Emergency Services District No. 1

APPROVED by the El Paso County Emergency Services District No. 1 in its meeting held on the 28th day of October, 2021 and executed by its authorized representative.

EL PASO COUNTY EMERGENCY SERVICES DISTRICT NO. 1

By:

Bill Mayberry  
Bill Mayberry, President

Date Signed:

10/29/2021

ATTEST:

Katherine Ames  
Katherine Ames, Administrator

FOR ESD NO. 1, APPROVED AS TO FORM:

Gilbert Sanchez  
Gilbert Sanchez, District's Attorney



Legislation Text

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File #: 22-988, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Fire, Interim Chief Jonathan Killings, (915) 212-5665

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the Mayor be authorized to sign an Interlocal Cooperation Agreement (the "Agreement") between the City of El Paso, Texas ("City") and the El Paso County Emergency Services District No. 2 ("District") to provide fire and emergency response during emergency conditions occurring within the City or the District, to expire on September 30, 2022, or as extended through automatic renewal through 2027.

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

**DEPARTMENT:** El Paso Fire Department

**AGENDA DATE:** August 30, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:** Interim Chief Jonathan Killings, (915) 212-5665

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 2: Set the Standard for a Safe and Secure City

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

THAT the Mayor be authorized to sign an Interlocal Cooperation Agreement (the "Agreement") between the City of El Paso, Texas ("City") and the El Paso County Emergency Services District No. 2 ("District") to provide fire and emergency response during emergency conditions occurring within the City or the District, expired on September 30, 2022, or as extended through automatic renewal through 2027.

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

This Interlocal Agreement allow for the continuance of providing emergency response mutual aid and combined training between the City of El Paso and El Paso County Emergency Services District No. 2. This is necessary for the safety and general welfare of the citizens in both jurisdictions.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

On October 6, 2015, the City Council approved the agreement.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

None

---

\*\*\*\*\*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 be authorized to sign an Interlocal Agreement (the “Agreement”) between the City of El Paso, Texas (“City”) and the El Paso County Emergency Services District No. 2 (“District”) to provide fire and emergency response during emergency conditions occurring within the City or the District, to expire on September 30, 2022, or as extended through automatic renewal through 2027.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2022.


CITY OF EL PASO

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


ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Jonathan P. Killings, Interim Fire Chief  
Fire Department

**THE STATE OF TEXAS**

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**COUNTY OF EL PASO**

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**INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF EL PASO, TEXAS  
AND THE EL PASO COUNTY EMERGENCY SERVICES DISTRICT NO. 2**

This Interlocal Agreement ("Agreement") is made and entered into by and between the City of El Paso, Texas (hereinafter referred to as "City") and the EL PASO COUNTY EMERGENCY SERVICES DISTRICT NO. 2 (hereinafter referred to as "District"), both of which are political subdivisions of the State of Texas, pursuant to the provisions of the Texas Interlocal Cooperation Act.

**WHEREAS**, the City is a home rule municipality located in El Paso County, Texas; and

**WHEREAS**, the District is an Emergency Services District in the State of Texas; and

**WHEREAS**, Texas Government Code, Chapter 791, Texas Interlocal Cooperation Act, Sections 791.003(3)(B), (D), (K), and (N), and 791.003(4)(A) allow local governments, including special districts, to contract with one another to perform governmental functions and services, including fire protection and other governmental functions in which the contracting parties are mutually interested; and

**WHEREAS**, the City and the District, each pursuant to its statutory and constitutional authority, are responsible for fire and emergency response, and are desirous that the necessary agreements be entered into by and between the parties to facilitate assistance between the parties during emergency conditions occurring within the City and District; and

**WHEREAS**, the City and District believe that a cooperative agreement between the parties would provide a mutual benefit to residents of both the City and District; and

**WHEREAS**, the City and District are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government Code 791.001 et seq., (the "Act") and Chapter 775 Texas Health and Safety Code, which authorizes local governments to contract with each other to perform governmental functions and services under the terms of the Act.

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

**I. PURPOSE**

The purpose of this Interlocal Agreement is to provide for the City and the District to provide mutual aid in fire prevention, training activities, response to incidents involving weapons of mass destruction, hazardous materials, medical emergencies, special rescue emergencies and property from fire and firefighting. This Agreement is not intended to modify or amend any currently existing Interlocal

Agreements between the District and the City and the terms and conditions set forth in any such agreement shall remain in full force and effect.

## **II. TERM**

Unless otherwise terminated hereunder, the initial term of this Agreement shall commence on the effective date of this Agreement and shall expire on September 30, 2022. If this Agreement is not terminated as provided herein on or before the expiration date above, it shall automatically renew for consecutive one-year terms, beginning on October 1<sup>st</sup> of each year thereafter and ending on September 30<sup>th</sup> of each year thereafter until 2027 at which time this Agreement shall expire and the automatic renewal period shall cease.

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

Upon the request by the Incident Commander or designated representative of the District, the City shall dispatch and provide firefighting equipment and personnel pursuant to the same policies and practices and in the same manner as the City would provide services within the City's own jurisdiction to any point within the firefighting jurisdiction of the District.

## **IV. OBLIGATIONS OF THE DISTRICT**

Upon the request by the City by and through the El Paso Fire Department, the District shall dispatch and provide firefighting equipment and personnel pursuant to the same policies and practices and in the same manner as the District would provide services within the District's own jurisdiction to any point within the area for which the El Paso Fire Department provides fire protection.

## **V. MUTUAL OBLIGATIONS OF THE PARTIES**

The rendering of assistance under the terms of this Agreement shall not be mandatory. The party receiving the request for assistance should immediately inform the requesting party if the assistance cannot be rendered when requested.

Any request for aid under this Agreement will specify the location to which the equipment and personnel are to be dispatched. The amount and type of equipment and the number of personnel to be furnished will be determined solely by the responding party.

The responding party will report to the officer in charge of the requesting party at the location to which the equipment is dispatched, and a unified command structure will be established if one is not already in place.

Nothing in this Agreement shall be construed to require either party to purchase additional equipment, acquire additional personnel, or otherwise increase or enhance its response capabilities.

## **VI. REIMBURSEMENT**

The responding party shall not be entitled to reimbursement from the requesting party for all or any part of the costs or expenses incurred by such party in furnishing mutual aid pursuant to this Agreement outside of the responding party's jurisdiction. However, a mutual aid response hereunder is considered the first operational period of twelve (12) hours, and after twelve (12) hours, any response hereunder will be considered a mutual aid response and subject to reimbursement, as provided by law or written agreement. Nothing in this Agreement shall preclude any party from seeking reimbursement of expenses from third parties, or other appropriate entities, including, but not limited to, local, state or federal government agencies, as appropriate. Nothing in the Agreement obliges a party responding to an emergency situation hereunder to remain on scene for more than the first operational period.

## **VII. LIABILITY**

Each party shall be solely responsible for fiscal penalties, fines or any other sanctions occasioned as a result of a finding that violations of any applicable local, state or federal regulations, codes or laws occurred as a result of that party's actions. Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement.

Specifically citing Texas Government Code Section 791.006(a-1), the parties agree that, for purpose of determining civil liability for non-party claims, the act of any person or persons while fighting fires, providing rescue services, providing first response EMS services, traveling to or from any type of emergency call or emergency scene, or in any manner furnishing services in accordance with this Agreement, shall be the act of the party performing such act. The payment of any and all civil or other liability, including liability on the basis of negligence, resulting from the furnishing of services under this Agreement is the responsibility of the individual party performing such acts. This shall specifically include, but not be limited to, the payment of court costs, expenses, and attorney's fees resulting from any such claim or lawsuit. The parties agree that the assignment of liability described by this Section is intended to be different than liability otherwise assigned under Section 791.006(a) of the Texas Government Code.

The parties expressly agree that, in the execution of this Agreement, neither party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its powers or functions or pursuant to the Texas Tort Claims Act or other applicable statutes, laws, rules, or regulations.

## **VIII. TERMINATION**

This Agreement may be terminated for convenience by either party providing thirty (30) days written notice to the other party. Either party may terminate this Agreement for cause by sending a sixty (60) days written notice to the other party. Termination shall be without prejudice to any obligation by one party to the other which shall have accrued and be owing prior thereto. The terminating party shall provide written notice setting forth the reason(s) for termination to the non-terminating party, and the latter shall have a thirty (30) day cure period which shall begin as of the date of receipt of the notice. If the non-terminating party fails to cure within the thirty (30) day period, the Agreement shall terminate.

## **IX. MODIFICATION OF AGREEMENT**

This Agreement contains the entire contract among the parties hereto, and each party acknowledges that no other party has made, either directly or through any agent or representative, any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended by agreement in writing executed by the City and District.

## **X. APPLICABLE LAW**

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in El Paso County, Texas.

## **XI. NOTICE**

All notices, demands and requests, including invoices which may be given or which are required to be given by either party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective when: (i) personally delivered to the intended recipient; (ii) three (3) days after being sent by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; (iii) delivered in person to the address set forth below for the party to whom the notice was given; (iv) deposited into the custody of a recognized overnight delivery service such as Federal Express Corporation, addressed to such party at the address specified below; or (v) sent by facsimile, telegram or telex, provided that receipt for such facsimile, telegram or telex is verified by the sender and followed by a notice sent in accordance with one of the other provisions set forth above. For purposes of this section, the addresses of the parties for all notices are as follows (unless changed by similar notice in writing given by the particular person whose address is changing):

### **CITY OF EL PASO**

City of El Paso  
Attention: City Manager  
P.O. Box 1890  
El Paso, Texas 79950-1890

### **COPY TO:**

City of El Paso  
Attention: City of El Paso Fire Department, Fire Chief  
416 N. Stanton, Suite 200  
El Paso, Texas 79901

### **EL PASO COUNTY EMERGENCY SERVICES DISTRICT NO. 2**

El Paso County  
Attention: President  
El Paso County Emergency Services District No. 2  
16001 Socorro Road  
Fabens, Texas 79838

## **XII. MISCELLANEOUS PROVISION**

**No Third Party Beneficiaries.** No term or provision of this Agreement is intended to, or shall, create any rights in any person, firm, corporation, or other entity not a party hereto, and no such person or entity shall have any cause of action hereunder.

**No Other Relationship.** No term or provision in this Agreement is intended to create a partnership, joint venture, or agency arrangement between any of the parties.

**Current Revenues.** Pursuant to Section 791.011(d)(3) of the Texas Government Code, each party performing services or furnishing aid pursuant to this Agreement shall do so with funds available from current revenues of the party. No party shall have any liability for the failure to expend funds to provide aid hereunder.

**Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, no failure, delay or default in performance of any obligation hereunder shall constitute an event of default or a breach of this Agreement if such failure to perform, delay or default arises out of causes beyond the control and without the fault or negligence of the party otherwise chargeable with failure, delay or default; including but not limited to acts of God, acts of public enemy, civil war, insurrection, riots, fires, floods, explosion, theft, earthquakes, natural disasters or other casualties, strikes or other labor troubles, which in any way restrict the performance under this Agreement by the parties.

**Approval.** This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.

**Assignment.** Except as otherwise provided in this Agreement, a party may not assign this Agreement or subcontract the performance of services without first obtaining the written consent of the other party.

**Non-Waiver.** A party's failure or delay to exercise a right or remedy does not constitute a waiver of the right or remedy. An exercise of a right or remedy under this Agreement does not preclude the exercise of another right or remedy. Rights and remedies under this Agreement are cumulative and are not exclusive of other rights or remedies provided by law.

**Paragraph Headings.** The various paragraph headings are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this Agreement or any section thereof.

**Severability.** The parties agree that in the event any provision of this Agreement is declared invalid by a court of competent jurisdiction that part of the Agreement is severable and the decree shall not affect the remainder of the Agreement. The remainder of the Agreement shall be and continue in full force and effect.

**Open Meetings Act.** The parties hereby represent and affirm that this Agreement was adopted in an open meeting held in compliance with the Texas Open Meetings Act (Tex. Gov. Code, Ch. 551), as amended.

**Counterparts.** This Agreement may be executed in multiple counterparts which, when taken together, shall be considered as one original.

**Effective Date.** This Agreement is made to be effective on the latest date accompanying the signatures below.

*(SIGNATURES APPEAR ON FOLLOWING PAGE)*

THE STATE OF TEXAS

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COUNTY OF EL PASO

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Signature page for the City of El Paso, Interlocal Cooperation Agreement between the City of El Paso,  
Texas and the El Paso County Emergency Services District No. 2

**APPROVED** by the City Council, El Paso, Texas in its meeting held on the \_\_\_\_ day of  
\_\_\_\_\_, 2022 and executed by its authorized representative.

CITY OF EL PASO

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

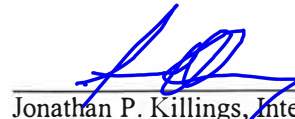
ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Jonathan P. Killings, Interim Fire Chief  
Fire Department



THE STATE OF TEXAS

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COUNTY OF EL PASO

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Signature page for the El Paso County Emergency Services District No. 2, Interlocal Cooperation Agreement between the City of El Paso, Texas and the El Paso County Emergency Services District No. 2

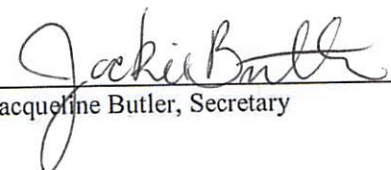
21 **APPROVED** by the El Paso County Emergency Services District No. 2 in its meeting held on the day of June, 2022 and executed by its authorized representative.

EL PASO COUNTY EMERGENCY SERVICES DISTRICT NO. 2

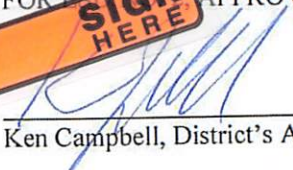
By:   
Adrian Santana, President

Date Signed: 6-21-2022

ATTEST:

  
Jacqueline Butler, Secretary

FOR  APPROVED AS TO FORM:

  
Ken Campbell, District's Attorney



Legislation Text

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File #: 22-1117, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Police, Assistant Chief Zina Silva, (915) 212-4306

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the Mayor be authorized to sign an Interlocal Governmental Agreement between the City of El Paso and the County of El Paso/District Attorney, 34th Judicial District of the State of Texas, for services to the City and its Police Department relating to arrests and prosecution of criminal cases in connection with the District Attorney's Information Management System (DIMS) program. The County of El Paso will fund DIMS in the amount of \$531,222.72 (69%) while the City will fund DIMS in an amount not to exceed \$238,665.28 (31 %).

## Exhibit A

### DISTRICT ATTORNEY INFORMATION MANAGEMENT SYSTEM (D.I.M.S.)

(FY2021: September 1, 2022 to August 31, 2023)

#### STAFFING SCHEDULE

Attorney staffing consists of 21 to 23 shifts for the average work week, and supplemental shift scheduling for select periods (holidays and/or special operations). The District Attorney provides staffing by at least one attorney/prosecutor at all times.

The enumeration of shifts for the typical non-holiday operational DIMS week is as follows:

	<i>MON</i>	<i>TUE</i>	<i>WED</i>	<i>THU</i>	<i>FRI</i>	<i>SAT</i>	<i>SUN</i>
	-----						
A-shift (Midnight - 8 a.m.)	#1	#4	#7	#10	#13	#16	#19
B-shift (8 a.m. - 4 p.m.)	#2	#5	#8	#11	#14	#17	#20
C-shift (4 p.m. - midnight)	#3	#6	#9	#12	#15	#18	#21
D-shift ("Baker") (E.g., 8 p.m. - 4 a.m. or 10 p.m. - 6 a.m. or 11 p.m. to 7a.m.)					#22	#23	

Attorney staffing may be enhanced, in conjunction with law enforcement needs, to cover anticipated heavy DIMS volume because of holidays, peak crime periods, or because of special law enforcement operations (e.g., roundups, blood-warrants). Staffing schedules may be amended for efficiency, economy, and to insure round-the-clock staffing. Shifts #22 and #23 may overlap primary shifts for busier nights.

Clerical staffing consists of 21 shifts for the average work week, which correspond with the attorney shifts #1-21, as enumerated above. On rare occasions, clerical staffing is enhanced, to cover anticipated heavy DIMS volume. Premium wage for winter holiday scheduling is incorporated into the budget, for a total amount not to exceed five hundred dollars. Staffing schedules may be amended for efficiency or economy. Clerical shifts may be optional due to unanticipated absence of assigned personnel.

## **Exhibit B**

### **DISTRICT ATTORNEY INFORMATION MANAGEMENT SYSTEM (D.I.M.S.), STAFFING RATES**

**Fiscal Year 2023**

(FY2023: September 1, 2022 to August 31, 2023)

The total program staffing cost for FY2023 is as set out in the Consideration clause. The program funding is for its Attorney Component, and its Secretarial/Clerical component.

Attorney Rates and Funding. Attorney participation in DIMS is voluntary. Funding is calculated as salary and corresponding benefits for shifts outside of regular office hours. The District Attorney pays regular salary rates for Attorney DIMS shifts that are within regular business hours. The District Attorney pays two flat rates for Attorney DIMS shifts that are outside of regular business hours: \$365 (salary) per shift, for the busier shifts; and \$340 (salary) per shift, for the lighter shifts. Shifts are slightly shorter for premium holidays (e.g., Christmas and New Year's Eve).

Clerical Rates and Funding. Clerical funding is calculated as salary and corresponding benefits. Rates vary according to El Paso County salary schedules for clerks and secretaries. Overtime rates are paid for work performed outside of regular business hours, as necessary to insure staffing by qualified personnel. For Christmas and New Year's, no more than eighteen clerical hours are paid to reduce regular shift times, for eleven scheduled shifts.

WEEK	MONTH	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Holiday	
1	SEP '22				1	2	3	4	Exhibit C	
2		5	6	7	8	9	10	11		Labor Day
3		12	13	14	15	16	17	18		FY-2023
4		19	20	21	22	23	24	25		(202-2023)
5	OCT '22	26	27	28	29	30	1	2		DIMS
6		3	4	5	6	7	8	9	SCHEDULE	
7		10	11	12	13	14	15	16	Indigenous Day	
8		17	18	19	20	21	22	23		
9		24	25	26	27	28	29	30		
10	NOV '22	31	1	2	3	4	5	6		
11		7	8	9	10	11	12	13	Veteran's Day	
12		14	15	16	17	18	19	20		
13		21	22	23	24	25	26	27	Thanksgiving +1	
14	DEC '22	28	29	30	1	2	3	4		
15		5	6	7	8	9	10	11		
16		12	13	14	15	16	17	18		
17		19	20	21	22	23	24	25	Christmas Eve Observed	
18	JAN '23	26	27	28	29	30	31	1	Christmas Observed + New Year's	
19		2	3	4	5	6	7	8	New Years Day	
20		9	10	11	12	13	14	15		
21		16	17	18	19	20	21	22	ML King Day	
22		23	24	25	26	27	28	29		
23	FEB '23	30	31	1	2	3	4	5		
24		6	7	8	9	10	11	12		
25		13	14	15	16	17	18	19		
26		20	21	22	23	24	25	26	President's Day	
27	MAR '23	27	28	1	2	3	4	5		
28		6	7	8	9	10	11	12		
29		13	14	15	16	17	18	19		
30		20	21	22	23	24	25	26		
31	APR '23	27	28	29	30	31	1	2	Cesar Chavez	
32		3	4	5	6	7	8	9	Good Friday	
33		10	11	12	13	14	15	16		
34		17	18	19	20	21	22	23		
35	MAY '23	24	25	26	27	28	29	30		
36		1	2	3	4	5	6	7		
37		8	9	10	11	12	13	14		
38		15	16	17	18	19	20	21		
39		22	23	24	25	26	27	28		
40	JUN '23	29	30	31	1	2	3	4	Memorial Day	
41		5	6	7	8	9	10	11		
42		12	13	14	15	16	17	18		
43		19	20	21	22	23	24	25	Juneteenth	
44	JUL '23	26	27	28	29	30	1	2		
45		3	4	5	6	7	8	9	4th of July observed	
46		10	11	12	13	14	15	17		
47		17	18	19	20	21	22	23		
48		24	25	26	27	28	29	30		
49	AUG '23	31	1	2	3	4	5	6		
50		7	8	9	10	11	12	13		
51		14	15	16	17	18	19	20		
52		21	22	23	24	25	26	27		
53		28	29	30	31					
54										

*Eve*

**Exhibit D**

**FY 2023 DIMS Staffing Component Projected Budget**

		<u>County of El Paso (69%)</u>	<u>City of El Paso (31%)</u>
<u>Cost</u>	Attorney Staffing: \$528,712	\$364,811.28	\$163,900.72
	Clerical Staffing: \$241,176	\$166,411.44	\$ 74,764.56
<u>Total Cost:</u>		\$769,888	
<u>Funding:</u>		\$531,222.72	\$238,665.28
<u>Total Funding:</u>	\$531,222.72 + \$238,665.28 = \$769,888		

Date		# of DIMS attorneys scheduled per day by shift		
Sunday		A-Shift		
		B-Shift		
		C-Shift		
Monday		A-Shift		
		B-Shift		
		C-Shift		
Tuesday		A-Shift		
		B-Shift		
		C-Shift		
Wednesday		A-Shift		
		B-Shift		
		C-Shift		
Thursday		A-Shift		
		B-Shift		
		C-Shift		
Friday		A-Shift		
		B-Shift		
		C-Shift		
		D-Shift		
Saturday		A-Shift		
		B-Shift		
		C-Shift		
		D-Shift		







Total Felony Cases	0
Total Cases Accepted	0
Total Cases Declined	0
Total Cases Advised to go Long Route	0

## DISTRICT ATTORNEY'S

1 C/W requests |  
 2 INVESTIGATIO  
 3 NO PROBABL  
 4 NO AFFIRMA  
 5 NO EVIDENCE  
 6 STATUTE OF  
 7 NO PROBABL  
 8 EVIDENCE DC  
 9 ARRESTING A  
 10 EVIDENCE DC  
 11 INVESTIGATIO  
 12 ARRESTING A  
 13 CIVIL MATTER  
 14 EVIDENCE DC  
 15 NECESSARY  
 16 CRUCIAL WIT  
 17 DEFENDANT |  
 18 INVESTIGATIO  
 19 USED AS EXT  
 20 LAB REPORT  
 21 CASE RESTS  
 22 OTHER

### 3 OFFICE REASONS FOR DECLINE

non-prosecution

ON REFLECTS NO PROBABLE CAUSE TO ESTABLISH CRIME WAS COMMITTED.

E CAUSE TO ARREST/SEARCH

WAS NOT LINK TO ESTABLISH DEFENDANT POSSESSED CONTROLLED SUBSTANCE.

WAS NOT TO ESTABLISH DEFENDANT AS PARTY

WAS NOT LIMITATIONS RAN

WAS NOT E CAUSE BY COURT

WAS NOT DOES NOT INDICATE SERIOUS BODILY INJURY

WAS NOT AGENCY REQUESTS DISMISSAL

WAS NOT DOES NOT CONNECT DEFENDANT TO THE CRIME

WAS NOT ON REPORT INDICATED DEFENDANT HAS VALID DEFENSE

WAS NOT AGENCY CHARGED WRONG OFFENSE

R

WAS NOT DOES NOT MAKE THE ELEMENTS OF A CRIME

WAS NOT WITNESSES NOT AVAILABLE OR WILL NOT COOPERATE IN INVESTIGATION/PROSECUTION

WAS NOT WITNESS TESTIMONY NOT CREDIBLE

WAS NOT IS A JUVENILE

WAS NOT ON IS INSUFFICIENT

WAS NOT VARIOUS OFFENSE

WAS NOT NEGATIVE FOR NARCOTICS SUBSTANCE

WAS NOT ON ACCOMPLICE TESTIMONY ONLY



<b>Total Misdemeanor Cases</b>	<b>0</b>
<b>Total Cases Accepted</b>	<b>0</b>
<b>Total Cases Declined</b>	<b>0</b>
<b>Total Cases Advised to go Long Route</b>	<b>0</b>

## DISTRICT ATTORNEY'S

1 C/W requests |  
 2 INVESTIGATIO  
 3 NO PROBABL  
 4 NO AFFIRMA  
 5 NO EVIDENCE  
 6 STATUTE OF  
 7 NO PROBABL  
 8 EVIDENCE DC  
 9 ARRESTING A  
 10 EVIDENCE DC  
 11 INVESTIGATIO  
 12 ARRESTING A  
 13 CIVIL MATTER  
 14 EVIDENCE DC  
 15 NECESSARY  
 16 CRUCIAL WIT  
 17 DEFENDANT |  
 18 INVESTIGATIO  
 19 USED AS EXT  
 20 LAB REPORT  
 21 CASE RESTS  
 22 OTHER

### 3 OFFICE REASONS FOR DECLINE

non-prosecution

ON REFLECTS NO PROBABLE CAUSE TO ESTABLISH CRIME WAS COMMITTED.

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WAS NOT LINK TO ESTABLISH DEFENDANT POSSESSED CONTROLLED SUBSTANCE.

WAS NOT TO ESTABLISH DEFENDANT AS PARTY

WAS NOT LIMITATIONS RAN

WAS NOT E CAUSE BY COURT

WAS NOT DOES NOT INDICATE SERIOUS BODILY INJURY

WAS NOT AGENCY REQUESTS DISMISSAL

WAS NOT DOES NOT CONNECT DEFENDANT TO THE CRIME

WAS NOT ON REPORT INDICATED DEFENDANT HAS VALID DEFENSE

WAS NOT AGENCY CHARGED WRONG OFFENSE

R

WAS NOT DOES NOT MAKE THE ELEMENTS OF A CRIME

WAS NOT WITNESSES NOT AVAILABLE OR WILL NOT COOPERATE IN INVESTIGATION/PROSECUTION

WAS NOT WITNESS TESTIMONY NOT CREDIBLE

WAS NOT IS A JUVENILE

WAS NOT ON IS INSUFFICIENT

WAS NOT VARIOUS OFFENSE

WAS NOT NEGATIVE FOR NARCOTICS SUBSTANCE

WAS NOT ON ACCOMPLICE TESTIMONY ONLY

TION



Case Number	Warrant Number	Day Count From Warrant Issuance to Presentation to DA (WI)	Day Count From Warrant Execution (Arrest) to Presentation to DA (WA)

Total Felony Cases	0
Total Misdemeanor Cases	0
Avg Days FeldCases (WI-A)	0
Avg Days MisdCases (WI-B)	0
Avg Days FelCases (WA-C)	0
Avg Days MisdCases (WA-D)	0

## RESOLUTION

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

That the Mayor be authorized to sign an Interlocal Governmental Agreement between the City of El Paso and the County of El Paso/District Attorney, 34<sup>th</sup> Judicial District of the State of Texas, for services to the City and its Police Department relating to arrests and prosecution of criminal cases in connection with the District Attorney's Information Management System (DIMS) program. The County of El Paso will fund DIMS in the amount of \$531,222.72 (69%) while the City will fund DIMS in an amount not to exceed \$238,665.28 (31%).

**ADOPTED** this \_\_\_\_ day of August, 2022.

### CITY OF EL PASO

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

### ATTEST:

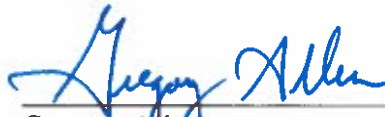
\_\_\_\_\_  
Laura D. Prine  
City Clerk

### APPROVED AS TO FORM:



\_\_\_\_\_  
Eric Gutierrez  
Assistant City Attorney

### APPROVED AS TO CONTENT:



\_\_\_\_\_  
Gregory Allen  
Chief of Police



Legislation Text

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File #: 22-1088, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 1, 2, 3, 4, 5, 7, 8**

Environmental Services, Ellen A. Smyth, (915) 212-6000

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the Solid Waste liens on the attachment posted with this agenda be approved (See Attachment A).

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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Ellen A. Smyth, P.E., Chief Transit and Field Operations Officer (915) 212-6000

**DISTRICT(S) AFFECTED:** 1, 2, 3, 4, 5, 7, 8

**STRATEGIC GOAL:** Goal 3 – Promote the Visual Image of El Paso

**SUBGOAL:**

**SUBJECT:**

That the Solid Waste liens on the attachment posted with this agenda be approved (See Attachment A)

**BACKGROUND / DISCUSSION:**

N/A

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

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

**PRIMARY DEPARTMENT:** Environmental Services Department

**SECONDARY DEPARTMENT:**

---

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

**DEPARTMENT HEAD:**



---

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

**ATTACHMENT A**  
**SOLID WASTE LIENS**  
**August 30, 2022**

<b>Address</b>	<b>Owner of Record</b>	<b>Amount</b>	<b>District</b>
1080 Country Club Rd	DURAN HECTOR L & GUERRERO A L	\$936.00	1
1820 Alabama St	ODOM INVESTMENTS INC	\$319.00	2
2606 Mountain Ave	HAMBLETON DOLORES	\$468.00	2
3820 Tularosa Ave	CAMARILLO ANDRES & AVELINA	\$313.50	2
5717 Divine St	PV COMMUNITY DEVELOPMENT CORPORATION	\$357.00	2
7577 Alameda Ave	OLIVAS VICTOR	\$333.50	3
1205 Selden Dr	DELGADO OMAR & MARIA C	\$284.75	3
5709 Fairbanks Dr	BUSTILLOS DANIEL	\$332.00	4
10501 Silvercloud Dr	KESTER MELANIE L	\$309.00	4
14816 Tierra Haven Ave	MARTIN NOAH C	\$320.00	5
8001 Porche St	PORTILLO ADRIANA E	\$387.50	7
9345 Socorro Rd	MCVAY ROSE M & FREDERICK J & 3	\$446.00	7
401 Riverside Dr	SULLIVAN E J & CELIA	\$1,330.50	7
7650 North Loop Dr	FAMILY DOLLAR OF TEXAS L P #2556 C/O TAX DEPARTMENT	\$306.00	7
6024 Cadiz St	RELIANT PROPERTIES LLC	\$427.93	8

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, DURAN HECTOR L & GUERRERO A L, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

1080 Country Club Rd, more particularly described as Lot 2  
(7634.00 Sq Ft), Block 1, Reddy Subdivision, City of El Paso, El  
Paso County, Texas, PID #R320-999-0010-0200

to be \$936.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 12th day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount NINE HUNDRED THIRTY SIX AND 00/100 DOLLARS (\$936.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor

ATTEST:


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

APPROVED AS TO FORM:



\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)



ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, ODOM INVESTMENTS INC, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

1820 Alabama St, more particularly described as Lots 8 & 9 & 11  
To 16 & 27 To 32 & W 5' Of (10 & 26) & Clsd Alley Btwn (46300.00  
Sq Ft), Block 76, Highland Park Subdivision, City of El Paso, El  
Paso County, Texas, PID #H453-999-0760-8900

to be \$319.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 3rd day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED NINETEEN AND 00/100 DOLLARS (\$319.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.


CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor

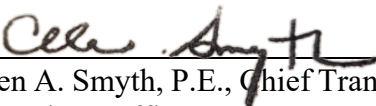
ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leeser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, HAMBLETON DOLORES, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

2606 Mountain Ave, more particularly described as Lot 26 To 29  
(Homesite) (10648 Sq Ft), Block 27, Military Heights Subdivision,  
City of El Paso, El Paso County, Texas, PID #M436-999-0270-8100

to be \$468.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 18th day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FOUR HUNDRED SIXTY EIGHT AND 00/100 DOLLARS (\$468.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.


CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor

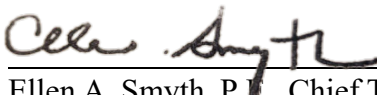
ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, CAMARILLO ANDRES & AVELINA, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

3820 Tularosa Ave, more particularly described as Lots 21 & E 1/2  
Of 22 (5250 Sq Ft), Block 19, Government Hill Subdivision, City  
of El Paso, El Paso County, Texas, PID #G569-999-0190-6100

to be \$313.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 18th day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUDNRED THIRTEEN AND 50/100 DOLLARS (\$313.50) to be a lien on the above described property, said amount being due and payable within



ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.


CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor

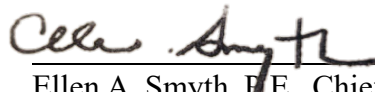
ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, E.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_  
**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, PV COMMUNITY DEVELOPMENT CORPORATION, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

5717 Divine St, more particularly described as Lot 5, Block 1, Delta  
Divine Subdivision, City of El Paso, El Paso County, Texas, PID  
#D400-999-0010-0500

to be \$357.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 8th day of July, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED FIFTY SEVEN AND 00/100 DOLLARS (\$357.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.


CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor


ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leeser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, OLIVAS VICTOR, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

7577 Alameda Ave, more particularly described as Lot 3-D-1 (0.294 Ac), Block 27, Ysleta Tr Subdivision, City of El Paso, El Paso County, Texas, PID #Y805-999-0270-0349

to be \$333.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 3rd day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED THIRTY THREE AND 50/100 DOLLARS (\$333.50) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leoser  
Mayor

ATTEST:

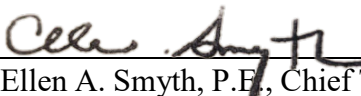
\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leeser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000



## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, DELGADO OMAR & MARIA C, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

1205 Selden Dr, more particularly described as Lot 7 (8464 Sq Ft),  
Block 3, Mesa Terrace Subdivision, City of El Paso, El Paso  
County, Texas, PID #M372-999-0030-3100

to be \$284.75, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 11th day of November, 2015, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount TWO HUNDRED EIGHTY FOUR AND 75/100 DOLLARS (\$284.75) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO:

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

ATTEST:


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

APPROVED AS TO FORM:



\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, BUSTILLOS DANIEL , referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

5709 Fairbanks Dr, more particularly described as Lot 6, Block 3,  
Colonia Verde Subdivision, City of El Paso, El Paso County, Texas,  
PID #C741-999-0030-1300

to be \$332.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 6th day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED THIRTY TWO AND 00/100 DOLLARS (\$332.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.


CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leoser  
Mayor

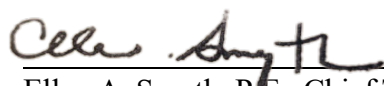
ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, KESTER MELANIE L, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

10501 Silvercloud Dr, more particularly described as Lot 20  
(5967.72 Sq Ft), Block 4, Summerlin Subdivision, City of El Paso,  
El Paso County, Texas, PID #S782-999-0040-2000

to be \$309.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 10th day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED NINE AND 00/100 DOLLARS (\$309.00) to be a lien on the above described property, said amount being due and payable within ten (10) days

from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

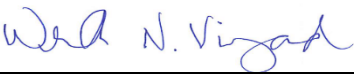
CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor


ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, F.E., Chief Transit and  
Field Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)



ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, MARTIN NOAH C, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

14816 Tierra Haven Ave, more particularly described as Lot 20,  
Block 530, Tierra Del Este #81B Subdivision, City of El Paso, El  
Paso County, Texas, PID #T287-999-5300-2000

to be \$320.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 5th day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED TWENTY AND 00/100 DOLLARS (\$320.00) to be a lien on the above described property, said amount being due and payable within ten (10)

days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.


CITY OF EL PASO:

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


ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leeser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, PORTILLO ADRIANA E, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

8001 Porche St, more particularly described as Lot 1 (6539 Ft),  
Block 26, Thomas Manor #11 Subdivision, City of El Paso, El Paso  
County, Texas, PID #T240-999-0260-0100

to be \$387.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 30th day of June, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED EIGHTY SEVEN AND 50/100 DOLLARS (\$387.50) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.


CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor


ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, MCVAY ROSE M & FREDERICK J & 3 referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

9345 Socorro Rd, more particularly described as Tr 13-B (0.23 Ac),  
Block 47, Ysleta Subdivision, City of El Paso, El Paso County,  
Texas, PID #Y805-999-0470-1301

to be \$446.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 29th day of June, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FOUR HUNDRED FORTY SIX AND 00/100 DOLLARS (\$446.00) to be a lien on the above described property, said amount being due and payable within



ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.


CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, SULLIVAN E J & CELIA, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

401 Riverside Dr, more particularly described as E 192.5 Ft Of N  
185.18 Ft & W 68.99 Ft Of N 105 Ft Of Tr 1 Exc 0.062 Acre Nec  
(40206 Sq Ft), Block B, Christy Subdivision, City of El Paso, El  
Paso County, Texas, PID #C454-999-000B-0100

to be \$1330.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 9th day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount ONE THOUSAND THREE HUNDRED THIRTY AND 50/100 DOLLARS (\$1330.50) to be a lien on the above described property, said amount being due and

payable within ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.


CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor


ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000

## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, FAMILY DOLLAR OF TEXAS L P #2556 C/O TAX DEPARTMENT, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

7650 North Loop Dr, more particularly described as Lot 9 & W 25  
Ft Of 10 (1.89 Ac), Arcadia Tr, City of El Paso, El Paso County,  
Texas, PID #A687-999-0000-5300

to be \$306.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 17th day of August, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED SIX AND 00/100 DOLLARS (\$306.00) to be a lien on the above described property, said amount being due and payable within ten (10) days

from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

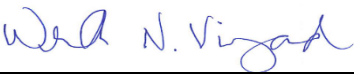
CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor


ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and  
Field Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leeser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000



## **RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, RELIANT PROPERTIES LLC, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

**WHEREAS**, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

6024 Cadiz St, more particularly described as Lot 256 (9240 Sq Ft),  
Block 15, Coronado Hills #1 Subdivision, City of El Paso, El Paso  
County, Texas, PID #C818-999-0150-1100

to be \$427.93, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 19th day of July, 2021, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FOUR HUNDRED TWENTY SEVEN AND 93/100 DOLLARS (\$427.93) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor

ATTEST:

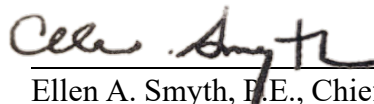
\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
Wendi Vineyard  
Assistant City Attorney

APPROVED AS TO CONTENT:



\_\_\_\_\_  
Ellen A. Smyth, P.E., Chief Transit and Field  
Operations Officer  
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Oscar Leaser, as Mayor, of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

**PREPARED IN THE OFFICE OF:**

Office of the City Attorney  
P.O Box 1890  
El Paso, Texas 79950-1890

**FOR PAY-OFF INFORMATION PLEASE CONTACT:**

Environmental Services Department  
7968 San Paulo  
El Paso, Texas 79907  
(915) 212-6000



Legislation Text

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File #: 22-1098, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 8**

Museums and Cultural Affairs, Ben Fyffe, (915) 212-1766

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Resolution to authorize the City Manager to execute a Sponsorship Agreement between the City of El Paso and CommUNITY en Accion (a Texas NonProfit Organization) wherein, CommUNITY en Accion will sponsor name plaques and granite for Treacherous Crossing Public Art Project, an installation at the El Paso Museum of History, for the amount of \$35,000.00, and to make any budget transfers required to ensure that the funds are properly expended for such purpose and to execute any related documents or amendments to carry out this purpose.

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

**AGENDA DATE:** August 30, 2022 (for Consent Agenda)

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Ben Fyffe, (915) 212-1766

**DISTRICT(S) AFFECTED:** 8

**STRATEGIC GOAL:**

Goal 3: Promote the Visual Image of El Paso

Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural & Educational Environments

**SUBJECT:**

Resolution to authorize the City Manager to execute a Sponsorship Agreement between the City of El Paso and *CommUNITY en Accion* (a Texas NonProfit Organization) wherein, *CommUNITY en Accion* will sponsor name plaques and granite for *Treacherous Crossing Public Art Project*, an installation at the El Paso Museum of History, for the amount of \$35,000.00, and to make any budget transfers required to ensure that the funds are properly expended for such purpose and to execute any related documents or amendments to carry out this purpose.

**BACKGROUND / DISCUSSION:**

Community En Accion committed \$35,000 in raised funds to augment *Treacherous Crossing*, the companion memorial to the Men of Company E. The bulk of funds were used to clad the concrete base in granite.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

Council periodically considers donations to municipal departments

**AMOUNT AND SOURCE OF FUNDING:**

\$35,000 in donated funds

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES \_\_\_NO**

---

\*\*\*\*\*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 city manager is authorized to execute a Sponsorship Agreement between the City of El Paso and *CommUNITY en Accion* (a Texas NonProfit Organization) wherein, *CommUNITY en Accion* will sponsor name plaques and granite for *Treacherous Crossing Public Art Project*, an installation at the El Paso Museum of History, for the amount of \$35,000.00, and to make any budget transfers required to ensure that the funds are properly expended for such purpose and to execute any related documents or amendments to carry out this purpose.

**APPROVED** this \_\_\_\_ day of August, 2022.

**THE CITY OF EL PASO:**

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

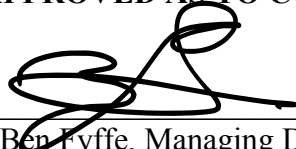
**ATTEST:**

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

**APPROVED AS TO FORM:**

*Danielle Escontrias*  
Danielle Escontrias  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Ben Fyffe, Managing Director  
Cultural Affairs and Recreation

STATE OF TEXAS           §  
                                     §  
COUNTY OF EL PASO   §                   **SPONSORSHIP AGREEMENT  
AND LICENSE**

This Sponsorship Agreement and License (“**Sponsorship Agreement**”) is entered into 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 City", and CommUNITY en Acción, a Texas Non-Profit Organization, hereinafter referred to as "Contractor."

**WHEREAS**, Contractor desires to sponsor additional name plaques and granite for *Treacherous Crossing* Public Art Project (“**Exhibition**”) permanently located at the Mexican American Cultural Center in front of the History Museum (“**Museum**”); and

**WHEREAS**, the City desires to accept the sponsorship, and in consideration, provide CommUNITY en Acción title sponsorship, and shall include a credit to CommUNITY en Acción in all print and social media for the Exhibition as described herein in accordance with the terms of this Sponsorship Agreement; and

**WHEREAS**, the City Council acknowledges that this agreement serves the municipal purpose of enhancing the quality of life of the residents of the City of El Paso.

**NOW THEREFORE**, for and in consideration of the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree to the conditions set forth below:

The parties agree as follows:

**1.0 Contractual Relationship.**

1.1 The parties to this Agreement are independent contractors. Except as may be expressly and unambiguously provided in this Agreement, no partnership or joint venture is intended to be created by this Agreement, nor any principal-agent or employer-employee relationship between the parties or any of their officers, employees, agents or representatives.

1.1.1 As an independent contractor, Contractor understands and agrees that it will be responsible for its respective acts or omissions, and the CITY shall in no way be responsible as an employer to Contractor’s officers, employees, agents or representatives who perform any service in connection with this Agreement.

1.1.2 As an independent contractor, the CITY understands and agrees that it will be responsible for its respective acts or omissions, and Contractor shall in no way be responsible as an employer to the CITY’s officers, employees, agents or representatives who perform any service in connection with this Agreement.

1.1.3 Contractor acknowledges and agrees that it does not have, and will not attempt to assert, the authority to make commitments for or to bind the CITY to any

obligation other than the obligations set forth in this Agreement. The CITY also acknowledges and agrees that it does not have, and will not attempt to assert, the authority to make commitments for or to bind Contractor to any obligation other than the obligations set forth in this Agreement.

## 2.0 Scope of Services

2.1 Contractor hereby agrees to make sponsorship payment to the City as follows for use by the City in support of *Treacherous Crossing* Public Art Piece:

2.1.1 Contractor shall pay to the City the amount of \$35,000.00 by September 30, 2022.

2.2 The City accepts sponsorship of \$35,000.00. In consideration for such sponsorship payment, the City agrees that Contractor shall be a non-exclusive sponsor of *Treacherous Crossing* Public Art Project, through the Museums and Cultural Affairs Department (“MCAD”). Public Art Program shall provide acknowledgment in all local advertising mediums and public relations aspects of the Exhibition, including but not limited to television stations, radio, newspaper, and any other print and electronic media as available. The City will prominently acknowledge the Contractors support as provided under this Section in any Exhibition signage. The credit line will appear as follows: “*Lead Sponsor: CommUNITY en Accion*” or “*Sponsored by CommUNITY en Accion*”.

## 3.0 Notices.

3.1 All notices under this Agreement shall be in writing and delivered either by personal delivery or by United States certified mail, return receipt requested. Such notices shall be deemed given when received by such party's designated representative.

CITY: City of El Paso  
Attn.: City Manager  
300 N. Campbell St, 2<sup>nd</sup> Floor  
El Paso, TX 79901

COPY TO: Museums and Cultural Affairs Department  
Attention: Director  
400 W. San Antonio Avenue, Ste. A  
El Paso, TX 79901

CONTRACTOR: Silvia Acosta  
Attn.: CEA Board Chair  
617 W. Franklin Avenue  
El Paso, Texas 79901



#### **4.0 Oral Representations.**

4.1 No oral representations of any officer, agent, or employee of City of El Paso, Contractor, shall affect or modify any obligations of either party under this Agreement. The City Manager for the City of El Paso is authorized to enter into amendments to this agreement that do not affect the budget of the City of El Paso.

#### **5.0 Assignment.**

5.1 Neither this Agreement may be assigned by either party without prior written approval of the other party.

#### **6.0 Governmental Function and Immunity.**

6.1 Governmental Function. The parties expressly agree that, in all things relating to this Agreement, the City enters into this Agreement for the purpose of performing a governmental function and is performing a governmental function, as defined by the Texas Tort Claims Act. Neither party waives any immunity under the Texas Tort Claims Act. The parties further expressly agree that every act or omission of the City, which in any way pertains to or arises out of this Agreement, falls within the definition of governmental function.

6.2 Sovereign Immunity. The City reserves, and does not waive, its rights of sovereign immunity and similar rights and do not waive their rights under the Texas Tort Claims Act. No provision of this Agreement that imposes an obligation or restriction on either party not permitted by applicable law shall be enforceable.

#### **7.0 INDEMNITY.**

**7.1 AS A CONDITION OF THIS AGREEMENT, CONTRACTOR OR ITS INSURER SHALL INDEMNIFY, DEFEND AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE,) INCLUDING BUT NOT LIMITED TO ALL JUDGMENTS, SETTLEMENT AMOUNTS, ATTORNEYS' FEES, COURT COSTS AND EXPENSES INCURRED IN THE INVESTIGATION, HANDLING, DEFENSE AND LITIGATION OF ANY CLAIM OR SUIT, INCLUDING BUT NOT LIMITED TO ANY CLAIM OR SUIT FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON REGARDLESS OF THE MERITS OF OR OUTCOME OF SUCH CLAIM OR SUIT ARISING OUT OF OR RELATED TO THIS AGREEMENT. THIS INDEMNIFICATION PARAGRAPH SHALL APPLY EVEN WHERE SUCH BODILY OR PERSONAL INJURY, ILLNESS, LOSS OF SERVICES, PHYSICAL OR MENTAL IMPAIRMENT TO OR DEATH OF ANY PERSON, OR FOR DAMAGE OR DESTRUCTION TO ANY PROPERTY RESULTS FROM OR INVOLVES NEGLIGENCE OR ALLEGATIONS OF**

**NEGLIGENCE ON THE PART OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES. WITHOUT MODIFYING THE CONDITIONS PRECEDENT FOR PRESERVING DEFENSES, ASSERTING CLAIMS OR ENFORCING ANY LEGAL LIABILITY, AGAINST THE CITY AS REQUIRED BY THE CITY CHARTER OR ANY LAW, THE CITY SHALL PROMPTLY FORWARD TO CONTRACTOR EVERY DEMAND, NOTICE, SUMMONS OR OTHER PROCESS RECEIVED BY THE CITY IN ANY CLAIM OR LEGAL PROCEEDING CONTEMPLATED HEREIN. CONTRACTOR SHALL 1) INVESTIGATE OR CAUSE THE INVESTIGATION OF ACCIDENTS OR OCCURRENCES INVOLVING SUCH INJURIES OR DAMAGES; 2) NEGOTIATE OR CAUSE TO BE NEGOTIATED THE CLAIM AS CONTRACTOR MAY DEEM EXPEDIENT; AND 3) DEFEND OR CAUSE TO BE DEFENDED ON BEHALF OF THE CITY ALL SUITS FOR DAMAGES EVEN IF GROUNDLESS, FALSE OR FRAUDULENT, BROUGHT BECAUSE OF SUCH INJURIES OR DAMAGES. CONTRACTOR SHALL PAY ALL JUDGMENTS IN ACTIONS DEFENDED BY CONTRACTOR PURSUANT TO THIS SECTION ALONG WITH ALL ATTORNEYS' FEES AND COSTS INCURRED BY THE CITY INCLUDING INTEREST ACCRUING TO THE DATE OF PAYMENT BY CONTRACTOR, AND PREMIUMS ON ANY APPEAL BONDS. THE CITY, AT ITS ELECTION SHALL HAVE THE RIGHT TO PARTICIPATE IN ANY SUCH NEGOTIATIONS OR LEGAL PROCEEDINGS TO THE EXTENT OF ITS INTEREST. THE CITY SHALL NOT BE RESPONSIBLE FOR ANY LOSS OF OR DAMAGE TO CONTRACTOR'S PROPERTY FROM ANY CAUSE.**

## **8.0 Applicable Law:**

8.1 The validity, interpretation, performance, and enforcement of this Agreement and any Program Agreement shall be governed by the laws of the State of Texas, along with applicable provisions of the federal law, the El Paso City Code and any Ordinance of the City.

## **9.0 Complete Agreement.**

9.1 This Agreement, together with the Attachment(s) attached hereto, constitutes the entire agreement between the parties relating to the terms and conditions of the Agreement. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this Agreement confers no rights on any person(s) or business entity(s) that is not a party hereto. This Agreement shall not be construed against or unfavorably to any party because of such party's involvement in the preparation or drafting of this Agreement.

## **10.0 Severability.**

10.1 All agreements and covenants contained in this Agreement are severable. Should any term or provision of this Agreement be declared invalid by a court of competent jurisdiction, the parties intend that all other terms and provisions of this Agreement should be valid and binding and have full force and effect as if the invalid portion had not been included.

## **11.0 Headings.**

11.1 The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

## **12.0 Compliance.**

12.1 Contractor shall comply with all applicable federal, state, and/or local rules and regulations during the performance of this Agreement.

## **13.0 Warranty of Capacity to Execute Contract.**

13.1 The person signing this Agreement on behalf of Contractor warrants that he/she has the authority to do so and to bind Contractor to this Agreement and all the terms and conditions contained herein.

*(Signatures on the following page)*

**EXECUTED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF EL PASO:**

\_\_\_\_\_  
Claudia A. Garcia, Interim Director  
Purchasing & Strategic Sourcing Department

**APPROVED AS TO FORM:**

*Danielle Escontrias*  
Danielle Escontrias  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
Ben Fyffe, Managing Director  
Cultural Affairs and Recreation

**CONTRACTOR:**

\_\_\_\_\_  
Name: Silvia Acosta  
Title: CEA Board Chair

## **ATTACHMENT “A”**

In consideration for the sponsorship payment, the City will provide the following benefits to the Contractor under the following terms:

- Provided that Contractor executes a standard use agreement for the use of Museum facilities, the City will allow the Contractor to host a reception at the Museum during the Exhibition. Contractor must select a date from the available dates provided by MCAD.
- The City will include the Contractor’s name in the Museums donor wall.
- The City will acknowledge the Contractor in the Museum’s Member Magazine.
- The City will acknowledge the Contractor in all press releases for the Exhibition.
- The City will acknowledge the Contractor in any social media posts on Facebook related to the Exhibition.
- The City will acknowledge the Contractor in the Museum’s Website.
- The City will provide the Contractor with a complimentary copy of the Exhibition Catalogue.
- The City will provide a group of up to 25 people selected by the Contractor a private tour of the Exhibition and the Museum’s permanent collection.

Contractor acknowledges and agrees that the City will only be obligated to provide the benefits to the contractor described under this Sponsorship Agreement during the term of the Sponsorship Agreement. It is the Contractors responsibility to coordinate with MCAD staff the dates available for the Contractor to avail itself of the benefits under this Sponsorship Agreement.



Legislation Text

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File #: 22-1107, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Community and Human Development, Nicole Ferrini, (915) 212-1659

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Approve a Resolution to Authorize the City Manager to sign on to joint comments drafted by a group of local governments in Texas. The comments will be filed in to the Sunset Advisory Commission currently reviewing the mission and performance of the Public Utility Commission of Texas (PUCT).

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

**AGENDA DATE:** 08/30/2022  
**PUBLIC HEARING DATE:** NA

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Nicole Ferrini, 915.212.1659

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 8 - Nurture and Promote a Healthy, Sustainable Community

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

Approve to authorize the City Manager to sign on to joint comments drafted by a group of local governments in Texas. The comments will be filed to in the Sunset Advisory Commission currently reviewing the mission and performance of the Public Utility Commission of Texas (PUC).

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

The Sunset Advisory Commission is reviewing the mission and performance of the Public Utility Commission of Texas (PUC). The Texas Sunset Act requires the Sunset Commission to periodically review PUC and recommend whether to continue the agency and change state law to improve the agency's efficiency and effectiveness. The Legislature ultimately will decide whether to continue PUC and adopt Sunset's other statutory recommendations. The Sunset Commission also may adopt management directives for PUC that do not require statutory change.

The scope of this proceeding directly affects our strategic priority to nurture and promote a healthy and sustainable community. The goal of engaging in this proceeding is to ensure that local governments priorities are considered as part of this review and as the Commission moves forward. The response comments identify key issues such local government involvement in PUCR rulings; enhanced community outreach; and inclusion of resilience in PUC's mission.

This engagement opportunity has been discussed with other Texas local governments including Dallas, El Paso, Lewisville, Mesquite, Plano, Harris County, and Travis County. The Sunset Advisory Commission needs to receive comments by the end of August 2022 in order to be able to review and incorporate those in their report.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**  
No.

**AMOUNT AND SOURCE OF FUNDING:**

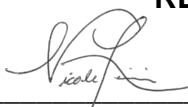
**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**  
NA

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES \_\_\_ NO

PRIMARY DEPARTMENT: Community and Human Development  
SECONDARY DEPARTMENT: Economic Development

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

DEPARTMENT HEAD: 

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



**RESOLUTION AUTHORIZING CITY MANAGER TO SUBMIT COMMENTS TO THE  
PUBLIC UTILITY COMMISSION OF TEXAS REGARDING  
THE ON-GOING SUNSET REVIEW PROCESS**

**WHEREAS**, the Public Utility Commission of Texas (PUCT) is the agency that regulates electricity policy and rulemaking in the State of Texas; and

**WHEREAS**, the Sunset Advisory Commission is reviewing the mission and performance of the Public Utility Commission of Texas (PUC) and welcomes public comments; and

**WHEREAS**, RMI, a non-profit focused on renewable energy and climate action convened several Texas governmental institutions to promote resilience and better prepare for future events that may impact the electrical grids in the State and may result in increases in energy consumption and costs for Texans; and

**WHEREAS**, some of these cities and counties worked together to provide comments to the Sunset Advisory Commission about the Public Utilities Commission of Texas (PUCT) regarding how to improve its operations and services; and

**WHEREAS**, this opportunity could i) Provide local governments a pathway to elevate any concerns they have with how the PUCT operates or makes decisions directly to staff who will recommend changes to a legislative commission for consideration; ii) Allow local governments to suggest specific improvements to how the PUCT operates, such as to enable local governments to more easily and effectively participate in decision-making processes and in other stakeholder processes, including task forces and working groups; and iii) Give local governments the opportunity to elevate community needs to the state to be considered as potential regulatory priorities; and

**WHEREAS**, the comments by City of El Paso, and other Texas local governments, will focus on i) Expand public involvement in PUCT decision-making processes; ii) Improve the PUCT's governance and resources; and iii) Align the PUCT's statutory mandate with equity and resilience.

**WHEREAS**, the previously mentioned focus areas of the comments will help enhance communication with the PUCT; and

**WHEREAS**, the advancement of resilience and equity is key to reduce energy burden for lower income El Pasoans; and

**WHEREAS**, these comments support the work of the Regional Renewable Energy Advisory Council (RREAC) and its Strategic Plan.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF EL PASO:**

That the City of El Paso, represented by the City Manager, will sign these comments to the PUCT, substantially similar to those provided in Attachment A and produced in coordination with a cohort of Texas governmental institutions.

That the City Manager or his designee will provide periodic updates to the City Council regarding this project.

[Signatures begin on the following page]

APPROVED THIS \_\_ DAY OF AUGUST, 2022.

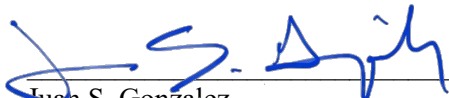
CITY OF EL PASO, TEXAS

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

ATTEST:

\_\_\_\_\_  
Laura Prine  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Juan S. Gonzalez  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Nicole Ferrini  
Chief Resilience Officer

Attachment A

Comments to PUCT Sunset Advisory Commission

## Attachment A

To: Emily Johnson, Project Manager, PUCT Sunset Advisory Commission  
From: City of El Paso, Texas  
August 26, 2022

### Comments from City of El Paso on Sunset Review of PUCT

The above local governments (“we”) are pleased to submit the following comments as part of the Sunset process for the Public Utility Commission of Texas (“PUCT”). We agree with the decision that moved the sunset review to the 2022-2023 review cycle for consideration of changes to this important agency during the 2023 legislative session. Given Texans’ challenging experiences during Winter Storm Uri and the continued challenges facing the PUCT, such as increasing energy prices, extreme weather and heat, and continued concerns about the reliability and fair competition of the grid and market, there is no better time to review the agency and take action to improve it. For any follow-up questions pertaining to these comments, please reach out to [berjanofl@elpasotexas.gov](mailto:berjanofl@elpasotexas.gov).

### Overall Comments

The PUCT provides essential services to the state and must be continued for another 12 years; Texans must have an effective agency regulating statewide utility systems, including the electricity market and transmission system, and providing customers with assistance in resolving consumer complaints. However, there are structural and financial issues that have perennially plagued the PUCT, reducing its efficacy at fulfilling its established mission. The agency is underfunded, often isolated from the public, and has failed to adequately assure reliable electric services that prioritize least-cost options and that are in the public interest. Therefore, we propose the following recommendations to support the PUCT in meeting its legislatively-defined roles:

- Expand public involvement in PUCT decision-making processes
- Improve the PUCT’s governance and resources
- Align the PUCT’s statutory mandate with equitable resilience

### Expand Public Involvement in PUCT Decision-making Processes

The PUCT is, at its core, a public-facing agency. Its decisions directly impact the health and livelihoods of Texans that local governments have an obligation to protect and have far-reaching consequences on the economic and social wellbeing of the state. The PUCT’s statutory mandate directs it to “...make and enforce rules necessary to protect customers [receiving]...electric services consistent with the public interest.”<sup>1</sup> However, we are increasingly concerned that the public and their local representatives are often without a voice in the regulatory decision-making process.<sup>2</sup>

*Recommendation: Improve the PUCT’s direct coordination with local governments.*

Local governments should be key stakeholders in championing a least-cost, resilient grid and in advancing the distributed infrastructure necessary to meet Texan’s energy needs, yet are left out of decisions. The PUCT needs statutory directives and mechanisms to coordinate directly with local governments, which

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<sup>1</sup> PURA, chapter 11 § 11.002.

<sup>2</sup> There has been a lack of studies on the financial impacts of the PUCT’s conservative market approach despite calls for review. Additionally, solely providing a platform to accept comments does not constitute adequate public engagement, and submitting comments without any indication of whether they were even read cannot be considered adequately participatory. This has left local governments with very little ability to impact important matters such as the market design docket due to the PUCT’s changing timeline for comments and lack of clarity around how public comment will inform its decisions.

are increasingly responsible for responding to local resilience issues and do not have an easy pathway to raise local concerns to the state.

The PUCT should establish opportunities for local governments to participate in task forces, working groups, and other stakeholder processes it convenes. Similar to ERCOT, the PUCT should have a municipal advisory board that solicits feedback from local governments on their energy needs, energy plans, and emergency management for extreme weather.<sup>3</sup> Additionally, the PUCT should require utilities to engage with local governments and integrate their energy- and resiliency-specific plans into the utilities' forecasting and resource plans.<sup>4</sup> This will ensure enhanced grid reliability and better utilize distributed energy resources, while also reducing the potential redundancy of initiatives and/or unnecessary infrastructure upgrades. The ability to avoid these unnecessary upgrades will reduce costs to customers and lead to more reasonable electricity bills for local governments and the residents and businesses in our communities. Further, synchronizing utility and local and grid-scale resiliency planning can establish municipal governments as thought partners in TDU disaster planning and response.

The PUCT should consider local government energy goals and challenges in its decision-making process to avoid making decisions that don't support local government priorities and needs. PUCT decisions that are misaligned with local government energy priorities will reduce the state's economic efficiency by ignoring local energy planning, likely at the expense of ratepayers. For example, a robust state energy efficiency and demand response program in conjunction with incentives for distributed energy resources, coordinated weatherization efforts, and support for local resilience hubs would simultaneously support local government energy and equity goals, improve the lives of residents who are vulnerable to increasingly frequent extreme weather events, accelerate energy reliability and affordability, and improve economic development opportunities by making Texas more appealing to large Commercial & Industrial customers. However, the PUCT has not made meaningful efforts in recent years to address any of these needs.

*Recommendation: Improve and expand its stakeholder engagement efforts.*

Residents and local governments are directly impacted by the outcomes of the PUCT's decision-making processes. However, these decisions often involve complex technical concepts and language that may not be accessible or comprehensible to the average consumer. Customers are described as being at the heart of the PUCT's mission, but they don't have an equal voice within rulemakings. Diverse voices—including marginalized, vulnerable, and low-income residents—should be sought out to foster fair competition, but incumbent interests have an outsized voice that has the potential to stifle competition and the innovative solutions that Texas is renowned for advancing.<sup>5</sup>

The PUCT should take actions to make open meetings more accessible to diverse stakeholders. One way to do this is to establish an intervenor compensation program to support broad participation in rulemaking proceedings.<sup>6</sup> Another is to stop holding exclusively in-person open meetings; virtual meetings

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<sup>3</sup> Unlike ERCOT's selection methodology, we believe the PUCT should allow any local government to sit on a municipal advisory board.

<sup>4</sup> While some municipalities in Texas have municipal utilities through which they can integrate their energy goals, this is not true of all municipalities in the state. Those without municipalities often have a more challenging time ensuring their transmission and distribution is accounting for their energy goals during grid planning.

<sup>5</sup> The PUCT could also be asked to consider engaging other state agencies on common issues. For example, they could coordinate efforts to accelerate residential weatherization alongside the [Texas Department of Housing and Human Affairs](#).

<sup>6</sup> Intervenor compensation "is the practice of reimbursing individuals or groups for the costs of their involvement in [state utility] regulatory proceedings... These groups advocate for views and issues that may otherwise not be introduced into the proceedings by the utility, large customers, state utility consumer advocates, attorneys general offices, or others. Programs have been developed in several states to encourage participation in all stages of proceedings before state commissions with the intended goal of having affected customers receive full and fair

are well-tested, highly-effective, and becoming the norm. The PUCT should have a permanent virtual option for its open meetings to allow more members of the public to attend from across of the state.<sup>7</sup> The PUCT should allow people to register online to attend and speak during open meetings for general issues and issues on the agenda. The Commission should also have a policy for language access to provide interpretation and transcription services for non-English speakers.

Additionally, the PUCT should develop a department modeled after the FERC Office of Public Participation that provides direct support, such as technical assistance and translation of PUCT collateral to non-technical audiences.<sup>8</sup> Such an office could receive comments and input, assure the public can participate in open meetings, workshops and rulemaking, and, as appropriate, provide language access and justice to the public. This office should also have a regional affairs arm, with a group of regional external affairs staff to act as dedicated points of contact for local governments, residents, and businesses in those regions to better understand the needs of customers including those in non-ERCOT regions that may have different needs than those in ERCOT regions. These dedicated staff are essential to ensuring the PUCT can effectively fulfill its mission to protect customers, and it will also increase the ability of the PUCT to support high-quality infrastructure through enhanced dialogues with local governments. This would be similar to previous “road-show” efforts the PUCT conducted in the past.

### **Improve the PUCT’s Governance and Resources**

The PUCT’s governance structures must be amended to better accommodate the needs of local governments and residents. Further, the PUCT should require new directives to perform holistic analysis of the rate and reliability impacts of regulatory decisions to inform decisions that are least-cost, promote competitive markets, and improve grid reliability.

*Recommendation: Improve commissioner awareness of residential and municipal customer needs.*

The Public Utility Regulatory Act (PURA) Chapter 12.B §12.053 lists qualifications that a commissioner must meet to be appointed as a commissioner of the PUCT. We support these qualifications and recommend an addition: at least one of the five commissioners should be required to have a background and expertise in residential consumer and municipal issues to represent residential and municipal interests. This would better position the PUCT to take a holistic approach to weighing consumer issues, as opposed to having better-resourced utility, trade, and large C&I interests disproportionately sway decision-making outcomes.

*Recommendation: Ensure the PUCT has adequate staffing and resources to enable decisions that bolster fair and transparent market competition for all energy resources, and that result in least-cost, reliable outcomes for customers.*

The PUCT has made a number of recent decisions without providing their supporting analysis to the public, and some of these decisions risk suppressing competitive markets and causing rate increases for customers.<sup>9</sup> This puts customer affordability, grid reliability, and fair competition at risk.

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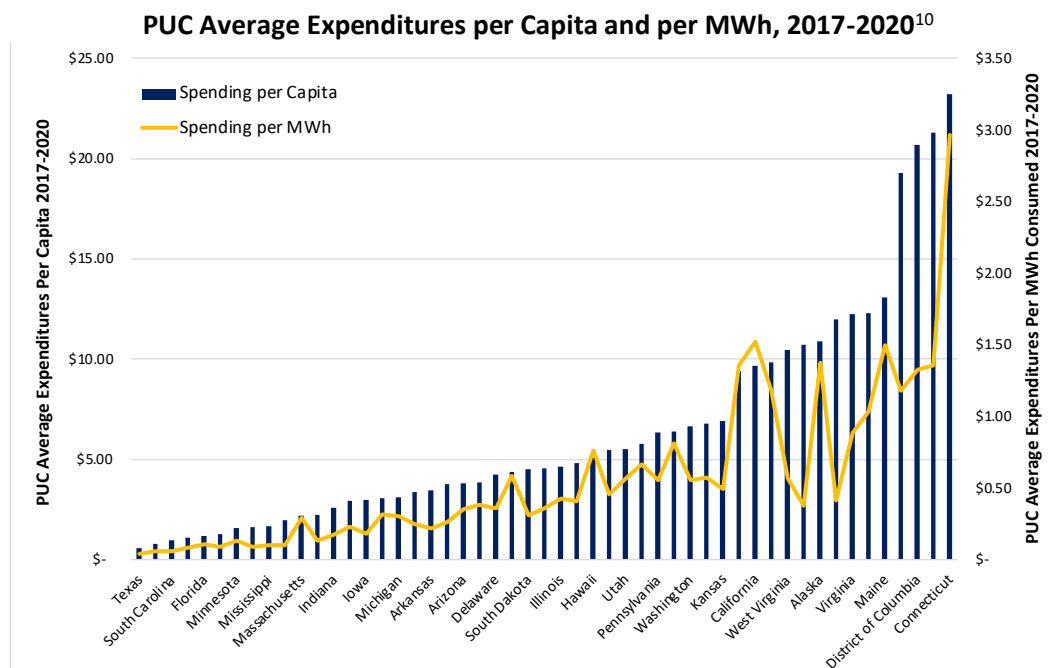
representation where the costs to intervene would otherwise create a financial hardship.” See *State Approaches to Intervenor Compensation*, National Association of Regulatory Utility Commissioners, December 2021, <https://pubs.naruc.org/pub/B0D6B1D8-1866-DAAC-99FB-0923FA35ED1E>.

<sup>7</sup> The PUCT has offered virtual options throughout the Covid-19 pandemic, which has been helpful to increase accessibility.

<sup>8</sup> <https://www.ferc.gov/OPP>

<sup>9</sup> The PUCT’s recent “blueprint” for wholesale market reform in the state [seemed to disregard the Administrative Procedures Act](#). The PUCT’s adjustments to ERCOT’s scarcity pricing mechanism change impacts everybody in ERCOT and there was no notice in the Texas Register, ability to ask for a hearing, etc. The PUCT has also forced changes on how ERCOT procures resources day-to-day in an attempt to ensure that there are

The PUCT would benefit from more full-time employees with expertise in rate design and grid reliability modeling to analyze the impacts of transmission and distribution-level reliability improvements, DER expansion, and energy efficiency expansion on rates. This is insufficient given the breadth of the PUCT's oversight—including ERCOT, retail and transmission and distribution electricity utilities, telecommunications and other utility systems, and increasingly hazardous grid conditions. Currently, the PUCT is the least funded public utility commission in the country on a per megawatt hour (MWh) and per capita basis. The graph below shows each state's public utility commission's average expenditures per capita and per MWh, and illustrates that the PUCT is least funded PUC through both lenses.



### Align the PUCT's statutory mandate with equitable resilience

The PUCT's current statutory mandate, as found in PURA Chapter 11 §11.002, grants the PUCT the authority to:

- Protect the public interest inherent in the rates and services of public utilities.
- Establish a comprehensive and adequate regulatory system for public utilities to assure rates, operations, and services that are just and reasonable to the consumers and to the utilities.
- Regulate utility rates, operations, and services as a substitute for competition.
- Make and enforce rules necessary to protect customers of telecommunications and electric services consistent with the public interest.

plenty of resources available to meet peak demand. Procuring these resources, known as "reserves", is standard practices, but the PUCT has required ERCOT to take an extreme procurement position. Using a process known as "Reliability Unit Commitment" or RUC, ERCOT now must call on large power plants to turn on and remain on as a contingency—even when they aren't needed and aren't operating economically. These power plants are mostly gas and coal steam units, and this process distorts the market, suppressing signals for cheaper renewable generators. But [the PUCT hasn't offered any analysis](#) that indicates the lights wouldn't have stayed on under the old system. This conservative operating approach has cost consumers an additional \$210-\$385 million so far this year, according to a [recent analysis by the Independent Market Monitor](#). Changes to the ERCOT operating reserve demand curve have added another \$475 million through May 2022, the report said.

<sup>10</sup> RMI analysis of PUC budget and staff data from review of each PUC in the United States' legislative budget from 2017 to 2020, state population data, and state energy consumption data. This data includes all PUC advisory staff and advocacy staff in those states that house advocacy staff within their PUC. Some states seat their advisory staff in a different agency, and in those cases budgets for those staff were not included, unless the budget allocation for advisory staff was clearly delineated.

However, there is no reference to creating a resilient and/or reliable grid, which has been underscored as a fundamental component of the PUCT's function in the past year, given a historical amount of extreme heat and cold weather events.

*Recommendation: Update the PUCT's statutory authority to include equitable resilience.*

The PUCT should protect all customers, including the most vulnerable. Low-income households face disproportionately higher energy burdens and unplanned outages than affluent neighborhoods and large customers. As seen during Winter Storm Uri and subsequent extreme heat conditions, the PUCT's mismanagement of the electricity market has placed undue burdens—including death—on the public. Winter Storm Uri and ongoing reliability issues across Texas due to extreme weather continue to threaten lives and economic stability.

The PUCT must be mandated to align its decisions to increase resilience in a least-cost, equitable manner as part of its statutory mandate to protect customers and promote effective infrastructure relative to current needs. Further, we hope they are required to open an investigation in the next 18 months into how they will incorporate equitable resilience in their decision-making, so that both commission staff and the public clearly understand what it means for the PUCT to co-optimize for equitable resilience alongside its existing mandates. The investigation should include stakeholder working groups and should conclude in a rulemaking that establishes guidelines for how the Commission will incorporate equitable resilience in their decision-making.

In conclusion, we would like to thank the PUCT Sunset staff for its diligent review of this and all other comments, and its hard work both during this and previous PUCT Sunset Review processes. Texas' commitment to energy innovation and competition will only be enhanced by continuous improvements to the PUCT's processes, authority, and operation to meet changing needs. Thank you for your consideration of these comments.

#### El Paso's addendum to the comments

PUCT when looking into environmental impacts in any of their proceedings should consider positive impacts due to Renewable energy projects. Expand the definition and scope of environmental assessment in the context of PURA and PUCT Substantive Rules to include climate impact as part of the environmental assessment process.



Paula Blackmon  
Chair, Environment & Sustainability City Council  
Committee, City of Dallas

Tommy Gonzalez  
City Manager, City of El Paso

[Signatory Name]  
[Signatory Position], Harris County

Sylvester Turner  
Mayor, City of Houston

Donna Barron  
City Manager, City of Lewisville

[Signatory Name]  
[Signatory Position], City of Mesquite

Mark Israelson  
City Manager, City of Plano



El Paso, TX

300 N. Campbell  
El Paso, TX

## Legislation Text

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**File #: 22-1128, Version: 2**

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### **CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM**

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

Members of the City Council, Representative Isabel Salcido, (915) 212-0005

#### **AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Carlos Saenz to the Parks and Recreation Advisory Board by Representative Isabel Salcido, District 5.

DATE: <u>August 24, 2022</u>			
TO: <u>City Clerk</u>			
FROM: <u>City Representative Isabel Salcido</u>			
ADDRESS: <u>300 N. Campbell</u>		TELEPHONE <u>915-212-0005</u>	
Please place the following item on the (Check one):		CONSENT	<input checked="" type="checkbox"/> X
		REGULAR	<input type="checkbox"/>
Agenda for the Council Meeting of		<u>August 30, 2022</u>	
Item should read as follows:		<u>Appointment of Carlos Saenz to the Parks and Recreation Advisory Board by Representative Isabel Salcido, District 5.</u>	

### **BOARD COMMITTEE/COMMISSION APPOINTMENT/REAPPOINTMENT FORM**

NAME OF BOARD/COMMITTEE/COMMISSION: Parks and Recreation Advisory Board

NOMINATED BY: Isabel Salcido DISTRICT: 5

NAME OF APPOINTEE Carlos Saenz  
(Please verify correct spelling of name)

E-MAIL ADDRESS: [REDACTED]

BUSINESS ADDRESS: [REDACTED]

CITY: El Paso ST:  ZIP: [REDACTED] PHONE:

HOME ADDRESS: [REDACTED]

CITY: El Paso ST: TX ZIP: [REDACTED] PHONE:

DOES THE PROPOSED APPOINTEE HAVE A RELATIVE WORKING FOR THE CITY? YES:  NO: X

IF SO, PLEASE PROVIDE HIS OR HER NAME, CITY POSITION AND RELATIONSHIP TO THE PROPOSED APPOINTEE:  
 HAS APPOINTEE BEEN A MEMBER OF OTHER CITY BOARDS/COMMISSIONS/COMMITTEES? IF SO, PLEASE PROVIDE NAMES AND DATES: N/A

LIST ALL REAL ESTATE OWNED BY APPOINTEE IN EL PASO COUNTY (BY ADDRESS): [REDACTED]

WHO WAS THE LAST PERSON TO HAVE HELD THIS POSITION BEFORE IT BECAME VACANT?

NAME OF INCUMBENT: Paul E. Garcia

EXPIRATION DATE OF INCUMBENT: October 14, 2023

REASON PERSON IS NO LONGER IN OFFICE (CHECK ONE): TERM EXPIRED:   
 RESIGNED X  
 REMOVED

DATE OF APPOINTMENT: August 30, 2022

TERM BEGINS ON: October 15, 2019

EXPIRATION DATE OF NEW APPOINTEE: October 14, 2023

PLEASE CHECK ONE OF THE FOLLOWING: 1<sup>st</sup> TERM:   
 2<sup>nd</sup> TERM:   
 UNEXPIRED TERM: X

## **Carlos Saenz**



### **EDUCATION / CERTIFICATIONS:**

#### **El Paso Community College**

El Paso, Texas

Associate Bachelor's in Applied Science in Heating and Cooling.

1999

#### **Texas Department of Licensing and Regulation**

El Paso, Texas

**Contractor's License Air Conditioning / Refrigeration (Active)**

1999

### **EMPLOYMENT EXPERIENCE**

#### **Ysleta Independent School District**

El Paso, Texas

POSITION: HVAC Tech 2

2004 –2020

- In charge of maintaining up to 1,200 A/C Units.
- 10 schools from Grade School to High School.
- Supervision of up to ten co-employees
- Responsible of purchasing materials, equipment and repairing them.

#### **Arts Heating and Cooling**

El Paso, Texas

**OWNER**

2000 –2004

- Provided A/C and Heating service to the El Paso metropolitan area.
- Diagnose, repair and installation of A/C and Heating units.
- Installed up to five-ton refrigeration and heating units.
- Consultant to engineers and builders on best HVAC units to install.

#### **ARTS MACHINING SHOP AND FABRICATION**

El Paso, Texas

**OWNER**

1998 - 2000

- Machine shop work at Maquiladoras in the El Paso / Juarez, Mexico area.
- Computer programming of mills machines.
- Automotive harnesses work and Tool and Die Fabrication
- Quality control of high output machines.
- Managed up to twenty employees at any given time.



El Paso, TX

300 N. Campbell  
El Paso, TX

## Legislation Text

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**File #: 22-1138, Version: 2**

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### **CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM**

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

Members of the City Council, Representative Cissy Lizarraga, (915) 212-0008

#### **AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Richard Bustamante to the Parks and Recreation Advisory Board by Representative Cissy Lizarraga, District 8.

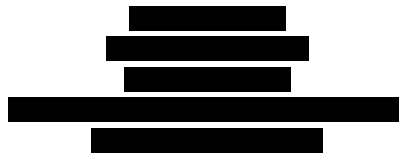


# Board Appointment Form

Submitted On: Aug 24, 2022, 11:58AM MDT

City Clerk

Appointing Office	Representative District 8
Type of Agenda	Consent
Date of Council Meeting	Tuesday, August 30, 2022
Agenda Posting Language	Appointment of Richard Bustamante to the Parks and Recreation Advisory Board by City Representative Cissy Lizarraga.
Name of Board/Committee/Commission	Parks and Recreation Advisory Board
Appointment Type	Regular
Special Qualification Category (if applicable)	
Nominated By	Representative Cissy Lizarraga
Nominee Name	Richard Bustamante
Nominee Email Address	
Nominee Mailing Address	
Zip Code	
Nominee Primary Phone Number	
Does the proposed appointee have a relative working for the city?	NO
Has appointee been a member of other city boards / commissions / committees?	NO
List all real estate owned by appointee in El Paso County (by address, if none, enter 'N/A')	N/A
Who was the last person to have held the position before it became vacant?	Robert Bigney
Incumbent Expiration Date	October 14, 2023
Reason person is no longer in office	Resigned
Date of Appointment	August 30, 2022
Term begins on	September 01, 2022
Expiration Date of New Appointee	October 14, 2023
Term	Unexpired Term
Upload File(s)	Resume_ Parks Advisory Board Candidate_.pdf



**Summary of Qualifications:**

- Downtown Business Improvement District Operations Manager experience
- I have 22 years' experience working and managing City of El Paso/ Parks and Recreation Dept. facilities, programs, and events.
- I have experience and I have established a good working relationship with local government officials and members of my community.
- I have extensive experience working with City of El Paso and County of El Paso and other entities. This includes City Manager's Office, Destination El Paso, West Texas Community and Supervision Department among others.
- Excellent communication and inter-personal skills
- Able to work effectively with people in a high-paced environment.
- Bilingual/ Fluent (English/ Spanish)

**Education/ Training:**

University of Texas at El Paso  
Bachelor of Organizational and Corporate Communication

January 2020- present

El Paso Community College  
Certificate of Completion: Basic Fire Suppression  
Texas Commission on Fire Protection Course ID No. 100  
Course Approval No. 2010048  
Hours of Credit: 468

August 2009- December 2009

**Professional Experience:**

**El Paso Downtown Management District**  
Operations Manager

November 2020- PRESENT

- \$500,000.00 Budget Management
- 10- Vehicle Fleet Management; Repairs, Preventative Management, and Purchasing of new vehicles
- Downtown El Paso Special Events Permit Management; work with City One Stop Shop and Planning/ Inspections Dept.
- Environmental Protection Agency- Brownfields Grant Program: Quality Assurance Manager for Downtown El Paso Grants
- Knowledge and use of City of El Paso Accela Permitting System
- Knowledge of City of El Paso Municipal Code program and systems.
- Respond to stakeholder and community questions and requests for services.
- Spend time walking in the Downtown El Paso DMD (outside up to 25% of the time) to establish relationships with Stakeholders, Businesses and Community Members.
- Establish and maintain effective working relationships with property owners, city officials, EPPD, Parks & Rec, Streets and Maintenance, local social service agencies, and small business owners.
- Collaborate with staff, contractors, and Board of Directors as needed to solve multifaceted community issues with excellent problem-solving skills.
- Provide guidance to clean and safe teams on more complex district issues and requests that come in through dispatch and on the ground staff.
- Attend community meetings as a representative of the DMD
- Develop and coordinate the communication of the DMD's value to property owners; oversee data collection and reporting for the interlocal agreement with the City of El Paso

- Create and implement initiatives to enhance public perception of the El Paso DMD Operations & Administration
- Provide daily oversight and ensure quality control of the services provided by our contractors to the district (this position requires that you are out in the field 25% of the time).
- Identify, research, and manage key maintenance and/or safety related projects throughout the district.
- Collaborate with City officials, stakeholders, and contractors on district projects that require ongoing management, such as street sign replacement.
- Manage City of El Paso Assets issues ranging from utilities to repairs. Identify vendors, obtain, and compare quotes, set up or adjust accounts as needed. Research products and competitively priced sources for those products.
- Produce high quality materials including documents for public Board meetings, draft reports, agendas, letters, memos, etc.
- Manage and respond to the organization's general email account.
- Maintain record of and review of invoice
- Coordinate quarterly team appreciation events.
- Support in a variety of administrative tasks such as the scheduling and preparation of meetings, taking meeting notes, and returning constituent phone calls and emails as delegated by the Executive Director.
- Research projects as assigned.
- Special projects as assigned.

### **Recreation Program Supervisor**

August 2000- November 2020

City of El Paso/ Parks and Recreation Department

- Plan organized recreational activities. Involves: Prepare and monitor annual user fee budget. Plan, coordinate and implement activities for recreation programs or events for targeted groups and participants. Schedule activities, fields, gymnasiums, games, and events. Program and schedule space availability for various groups and organizations. Develop rules for games, sports, and events. Coordinate with contractors, officials, and vendors. Post outcomes of games and events as needed. Evaluate activities. Recommend and incorporate changes and improvements. Resolve participant complaints.
- Supervise or assist in supervising a recreational or aquatic facility. Involves: Design activities for targeted groups or populations such as dance, arts and crafts, or English classes. Contract with instructors for classes. Prepare programs, promotion, and press releases. Prepare program budget and purchase materials as needed. Monitor participant payment and instructor schedules and time sheets. Develop special programs with other recreation staff and other departments.
- Provide support and assistance for recreation programs. Involves: Prepare grant proposals for additional funding. Prepare and monitor budget for programs, sites, or centers. Prepare purchase requisitions. Oversee accounts receivable for program administration and make deposits. Maintain appropriate records and filing systems. Monitor facilities and report maintenance repairs or problems. Prepare recurring and ad hoc activity and program reports. Support franchise marketing program, as assigned. Attend related marketing conferences and perform related administrative duties.
- Supervise assigned staff. Involves: Schedule, assign, instruct, guide and check work. Appraise employee performance. Provide for training and development. Enforce personnel rules and regulations and work behavior standards firmly and impartially. Counsel, motivate and maintain harmony. Interview applicants. Recommend hiring, termination, transfers, discipline, merit pay or other employee status changes.
- Customer Service: collecting and accounting for fees or other assessments from participants; registering participants and providing information to the public on programs, fees, and services; issuing and receiving equipment and materials.
- Investigating complaints and suggestions from participants, resolving complaints, or recommending resolutions.
- Schedule and implement use of facilities, materials, and equipment at an assigned site. Involves: maintaining and up keeping records of all center programs and participation, material and equipment inventories and preparing activity and related reports and communications; assuring buildings, structures, pools, sports fields, playgrounds, and equipment are maintained safe and in operating condition.
- Performing the hiring, training, and job performance of assigned recreational staff, volunteers, and contract employees.



- Plan, organize, implement, direct, and conduct a variety of assigned recreation programs and social support services to meet the needs of the community. Involves: consulting with participants, supervisors, community, and social agencies.
- Developing and setting up arrangements for social activities and sports events for a variety of age and cultural groups; recommending program changes and improvements, if necessary.
- Prepare, oversee, and audit budgets for an assigned site and its designated programs; prepare routine reports and assist with development and preparation of special data requirements; prepare and make all recreation center banking deposits
- Perform related incidental duties contributing to the realization of unit or team objectives. Includes: substituting during temporary absences for coworkers or subordinates as qualified and within authorized limits by carrying out specified functions to maintain continuity of center operations; open for business or close recreation center daily.
- Plan, develop and supervise operations of assigned recreation centers and sites. Involves: Develop plans, goals, and objectives for assigned recreation programs. Meet with participants to identify needs. Analyze feedback to plan and implement programs and services for recreation centers, recreation sites and senior centers. Promote activities and monitor participation. Plan, implement, promote, and participate in citywide and special events.
- Oversee and monitor budget, fee collection and facilities. Involves: Prepare and monitor multiple recreation facility budgets. Determine the approximate cost needed to fund athletic programs. Prepare grant proposals for additional funding. Oversee and participate in collection of fees and preparation of deposits. Determine and implement appropriate user fees. Monitor expenditures from user fee funds. Transfer or administer fee increases as needed. Plan future revenue and adjust budget accordingly. Prepare cost estimates. Monitor and approve expenditures. Inspect buildings to ensure a safe environment for participants. Prepare work orders and work with maintenance department to resolve maintenance concerns.
- Represent the department and provide support, information and guidance for recreation programs and activities. Involves: Respond to requests for information on recreation policies and procedures. Participate as a member of local, state, and national athletic organizations to represent the department. Plan and implement coach and parent training for participants. Meet with departments and outside agencies. Prepare and present to outside agencies on programs. Enforce athletic program policies and requirements. Resolve problems and recommend appropriate action. Prepare comprehensive documents on studies, special reports and recommendations. Direct the preparation of activity reports. Maintain appropriate files and records. Attend neighborhood meetings, professional meetings, and other gatherings to represent the department.
- Supervise assigned staff and volunteers. Involves: Schedule, assign, instruct, guide and check work. Appraise employee performance and review evaluations by subordinate supervisors, if applicable. Provide for training and development. Enforce personnel rules and regulations and work behavior standards firmly and impartially. Counsel, motivate and maintain harmony. Interview applicants. Recommend hiring, termination, transfers, discipline, merit pay or other employee status changes. Hire contracted individuals to teach classes.

#### **Additional Work and Professional Experience:**

- I have extensive experience and knowledge working and managing large-scale city/parks programs. I have developed, planned, coordinated, and help execute the following programs with the City of El Paso Parks and Recreation Department:
  1. Lead Logistics Parks POC/ Liaison with Office of Emergency Operations, with regards to COVID-19- March 2020- November 2020
  2. Lead Event and Safety Officer for the Annual Celebration of Lights Parade in coordination with City Manager's Office, Office of Emergency Management, El Paso Police Department, and the El Paso Fire Department since 2010, Downtown Management District, City of El Paso Planning, Sun Metro, El Paso Streetcar, El Paso Times, Downtown area merchants, among others.
  3. Assistant Event Site Project Manager- Texas Recreation and Parks Society (TRAPS) Institute and Expo- 2019. Responsible for event and site planning. Worked alongside Assistant Parks & Recreation Director Joel McKnight, TRAPS Executive Director and TRAPS Executive Committee to fulfill and execute Institute and Expo.
  4. Parks and Recreation Department Coordinator for West Texas Community Supervision Program: This includes meeting with all division managers to follow program protocols in conjunction with the West Texas Community Supervision Program.

5. Parks and Recreation Department- Senior Division Safety Coordinator: This includes having monthly meetings with dept. heads and division center directors and following a training program developed along with the City of El Paso Safety Officer.
6. Assisted Parks Assistant Director Joe Rodriguez with special assignments, which include working with the County of El Paso, EPISD, City Representatives Office, and The Office of the Mayor.
7. Assist Senior Division Manager David Lopez with division special programming, citywide health, and wellness programming, work closely with outside agencies to include Area Agency on Aging, Well-Med, Humana Health, United Health Care, and The University of Texas at El Paso.
8. Work closely with other City Department heads to include Public Information Office (PIO) during special events; this includes working with media, sound tech, event staging, El Paso Diocese, Downtown Management District, El Paso Live, Destination El Paso, MCAD, Libraries.

### **Knowledge, Skills, and Abilities**

- Considerable knowledge of recreational program and activity planning principles and practices.
- Good knowledge of planning and providing community based recreational activities.
- Considerable knowledge of field and court maintenance methods and techniques.
- Good knowledge of identifying community recreation needs.
- Good knowledge of recreation management principles and practices.
- Knowledge of budget development and management.
- Supervise, train, and evaluate assigned staff.
- I have developed and implemented a variety of recreation, leisure, special events and athletic programs for a wide variety of interest groups.
- I exhibit clear concise oral and written communication for report development and presentations.
- I have established and maintained effective working relationships with coworkers, city officials, other city departments, contractors, regulatory agencies, other recreation agencies and the public.



El Paso, TX

300 N. Campbell  
El Paso, TX

## Legislation Text

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**File #:** 22-1125, **Version:** 2

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### **CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM**

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

Members of the City Council, Representative Henry Rivera, (915) 212-0007

#### **AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Kathryn R. Lucero to the Women's Rights Commission by Representative Henry Rivera, District 7.



# Board Appointment Form

Submitted On: Aug 23, 2022, 11:32AM MDT

City Clerk

Appointing Office	Representative District 7
Type of Agenda	Consent
Date of Council Meeting	Tuesday, August 30, 2022
Agenda Posting Language	Appointment of Kathryn R. Lucero to the Women's Rights Commission by City Representative Henry Rivera, District 7.
Name of Board/Committee/Commission	Women's Rights Commission
Appointment Type	Regular
Special Qualification Category (if applicable)	Resides in District 7
Nominated By	Representative Henry Rivera
Nominee Name	Kathryn R. Lucero
Nominee Email Address	
Nominee Mailing Address	
Zip Code	
Nominee Primary Phone Number	
Does the proposed appointee have a relative working for the city?	NO
Has appointee been a member of other city boards / commissions / committees?	NO
List all real estate owned by appointee in El Paso County (by address, if none, enter 'N/A')	N/A
Who was the last person to have held the position before it became vacant?	New board
Incumbent Expiration Date	September 01, 2022
Reason person is no longer in office	Term Expired
Date of Appointment	August 30, 2022
Term begins on	September 01, 2022
Expiration Date of New Appointee	August 31, 2024
Term	1st Term
Upload File(s)	Kathryn Lucero Resume copy-3.docx

# KATHRYN R. LUCERO

## EXPERIENCED UTILITY MANAGEMENT PROFESSIONAL

SEASONED AND ACCOMPLISHED DEGREED PROFESSIONAL with a track record of success in the government and non-profit sectors, with an emphasis on water and waste-water projects. A tenacious worker with a methodical approach. A results-oriented professional experienced in project management, government, and political environments. Attentive to detail with a commitment to accuracy, efficiency, and maximum results. Self-directed and adept at successfully acclimating to new professional roles.

### Multi-faceted skill set includes:

Policy Review & Development  
Needs Assessment  
Budget Development & Management

Resource Management  
Data Analysis  
Policy Analysis

Community Organizing  
Problem-Resolution  
Grant Writing & Management

*Bilingual Communication Skills in English and Spanish  
Computer Proficient in Word Processing, Spreadsheet, & Data Management Applications*

## PROFESSIONAL EXPERIENCE

### **Colonia Project Manager DIGDEEP RIGHT TO WATER PROJECT**

2022-Current

The Colonias Water Project Manager (Cochran) is responsible for the day-to-day operations of the Colonias Water Project in Colonias, Texas and other nearby colonias. This includes overseeing and implementing program activities, budgeting, collaborating and Job Description // Colonias Water Project Manager Coordinating with the local government and water providers, external partners, and community members, while maintaining strong communications with HQ.

### **Development Management Specialist COMMUNITIES UNLIMITED**

2017-2022  
El Paso, Texas

*Oversee 12 water and wastewater projects across counties in far west Texas. Work closely with impoverished communities that lack basic resources.*

Provide onsite technical assistance services to water and wastewater service providers in mostly rural and/or remote communities in far west Texas. Conduct research and development to assist communities with water and wastewater applications to obtain service and coordinate projects.

- Identify and recruit community leaders to help organize community efforts.
- Supervise the organization of communities and act as a liaison between community members and the local political subdivisions.

### **Ombudsperson STATE OF TEXAS - OFFICE OF THE SECRETARY OF STATE**

2009-2017  
El Paso, Texas

*Served as the primary point of contact for over 100 colonias in far west Texas where most residents were Spanish dominant or monolingual Spanish-speaking.*

Spearheaded technical and process assistance to water districts, municipalities, state and federal agencies, communities, and nonprofit organizations for critical infrastructure projects. Facilitated and assisted with the formulation of project budgets. Initiated and conducted community needs assessments, prepared and submitted complex multimillion dollar infrastructure funding proposals. Researched and identified possible funding sources for projects or phases or projects. Oversaw the coordination and facilitation of infrastructure projects, monitored water and wastewater construction projects, and served as a liaison between water service providers,

community members, funding entities, and project consultants. Coordinated and facilitated community and stakeholder meetings for the strategic development of action plans. Coordinated with county, state, and federal funding entities for project management.

- Successfully coordinated several first time multi-million water & wastewater projects, providing over 750 families access to first time basic services.
- Recognized by state and county leaders for successful completion of projects and attainment of funding.

***Continued...***

**PROFESSIONAL EXPERIENCE (CONT...)**

<b>PROGRAM COORDINATOR</b> <b>HOUSING AUTHORITY OF THE CITY OF EL PASO</b> <i>Coordinated Ross Self-Sufficiency Homeownership Program.</i> Managed and administered a \$500,000 HUD funded self-sufficiency grant for public housing residents. Provided home ownership and credit counseling, conducted outreach presentations. Coordinated services for clients with community agencies, prepared program reports for the Housing and Urban Development Agency (HUD)	2007-2009 El Paso, Texas
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**EDUCATION**

<b>Master's Degree in Human Resource Development</b> <b>WEBSTER UNIVERSITY</b>	2013 El Paso, Texas
<b>Bachelor's Degree in Social Psychology</b> <b>PARK UNIVERSITY</b>	2008 El Paso, Texas

**OTHER TRAINING**

Basic Water Licensing Class - Texas A&M Engineering Extension Service  
North American Development Bank – Utility Management Institute  
Center for Neighborhood Enterprise - Certified Financial Literacy Instructor  
Completed Grant Writing Training through the Grantsmanship Center  
Trained and certified as a Housing Counselor by the Texas Statewide Homebuyer Education Program in partnership with Neighborhood Reinvestment

**CIVIC SERVICE**

Trustee YSLETA INDEPENDENT SCHOOL DISTRICT	2017-Present El Paso, Texas
Commissioner EL PASO COUNTY HOUSING AUTHORITY	2015-2019 El Paso, Texas
Board Member YSLETA EDUCATION FOUNDATION	2013-2017 El Paso, Texas

REFERENCES AVAILABLE UPON REQUEST



Legislation Text

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File #: 22-1096, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Tax Office, Maria O. Pasillas, (915) 212-1737

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

That the tax refunds listed on the attachment posted with this agenda be approved. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments greater than \$2,500.00. (See Attachment B)



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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Maria O. Pasillas, (915) 212-1737

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 6 – Set the Standard for Sound Governance and Fiscal Management

**SUBGOAL:** 6.11 Provide efficient and effective services to taxpayers

**SUBJECT:**

**APPROVE** a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

That the tax refunds listed on the attachment posted with this agenda be approved. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments greater than \$2,500.00. (See Attachment A)

**BACKGROUND / DISCUSSION:**

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Approve property tax overpayment refunds greater than \$2,500.00, per the Texas Property Tax Code, Sec. 31.11 – Refunds of Overpayments or Erroneous Payments.

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one?

Council has considered this previously on a routine basis.

**AMOUNT AND SOURCE OF FUNDING:**

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

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

**PRIMARY DEPARTMENT:** Tax Office

**SECONDARY DEPARTMENT:** N/A

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

**DEPARTMENT HEAD:**

*Maria O. Pasillas*

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


TAX REFUNDS  
August 30, 2022

1. Century Machinery Co., Inc., in the amount of \$6,056.91 made an overpayment on January 30, 2022 of 2021 taxes.  
(Geo. # 1998-999-2288-0050)
2. Ryan Tax Compliance Service LLC-Paying for Stryker Orthopedics, in the amount of \$4,219.59 made an overpayment on January 31, 2020 of 2019 taxes.  
(Geo. # 2001-999-4092-0034)
3. Texas Title, in the amount of \$11,209.99 made an overpayment on December 30, 2021 of 2021 taxes.  
(Geo. # D377-999-001A-5100)
4. Prosperus Title and Escrow, in the amount \$3,875.92 made an overpayment on July 26, 2022 of 2021 taxes.  
(Geo. # R221-999-0440-4900)

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Laura D. Prine  
City Clerk

---

  
Maria O. Pasillas, RTA  
Tax Assessor Collector



RECEIVED  
AUG 10 2022

277

MARIA O. PASILLAS, RTA  
CITY OF EL PASO TAX ASSESSOR COLLECTOR  
221 N. KANSAS, STE 300  
EL PASO, TX 79901  
PH: (915) 212-0106 FAX: (915) 212-0107 Email: taxforms@elpasotexas.gov

JOSE GANDARA  
955 LOMA VERDE  
EL PASO, TX 79936

Geo No. 1998-999-2288-0050	Prop ID 496432
Legal Description of the Property DEALER HEAVY EQUIPMENT INV  955 LOMA VERDE DR  OWNER: CENTURY MACHINERY CO INC	
2021 OVERAGE AMOUNT \$6,056.91	

OP ✓  
+ 2,500

1: CITY OF EL PASO, 6: COUNTY OF EL PASO, 7: EL PASO COMMUNITY COLLEGE, 8: UNIVERSITY MEDICAL CENTER OF EL PASO, 9: SOCORRO ISD

Dear Taxpayer:

Our records indicate that an overpayment exists on the property tax account listed above as of the date of this letter. If you paid the taxes on this account and believe you are entitled to a refund, please complete the application below, sign it, and return it to our office. If the taxes were paid by your mortgage/title company or any other party, you must obtain a written letter of release in order for the refund to be issued in your name. If you did not make the payment(s) on this account, please forward this letter to the person who paid these taxes. You may also request the transfer of this overpayment to other tax accounts and/or tax years in the space provided or by attaching an additional sheet if necessary. Your application for refund must be submitted within three years from the date of the overpayment, or you waive the right to the refund (Sec. 31.11c). Governing body approval is required for refunds in excess of \$2500.

**APPLICATION FOR PROPERTY TAX REFUND:**

This application must be completed, signed, and submitted with supporting documentation to be valid

<b>Step 1. Identify the refund recipient.</b> Show information for whomever will be receiving the refund.	Who should the refund be issued to:			
	Name: CENTURY MACHINERY CO. INC. 955 LOMA VERDE RD. EL PASO, TEXAS 79936		CENTURY MACHINERY CO. INC. 955 LOMA VERDE RD. EL PASO, TEXAS 79936	
<b>Step 2. Provide payment information.</b> Please attach copy of cancelled check, original receipt, online payment confirmation or bank/credit card statement.	City, State, Zip:		E-Mail Address:	
	Daytime Phone No.:		Date Paid	
	Payment made by:	Check No.	Amount Paid	
	C/Card	4285835	1/30/22 9446.64	
<b>Step 3. Provide reason for this refund.</b> Please list any accounts and/or years that you intended to pay with this overage.	TOTAL AMOUNT PAID (sum of the above amounts)			
	Please check one of the following:			
	<input type="checkbox"/> I paid this account in error and I am entitled to the refund.			
	<input checked="" type="checkbox"/> I overpaid this account. Please refund the excess to the address listed in Step 1.			
<b>Step 4. Sign the form.</b> Unsigned applications cannot be processed.	I want this payment applied to next year's taxes.			
	This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below):			
By signing below, I hereby apply for the refund of the above-described taxes and certify that the information I have given on this form is true and correct. ( If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, Sec. 37.10. )				
SIGNATURE OF REQUESTOR (REQUIRED)		PRINTED NAME & DATE		
[Signature]		Jose Gandara 7/11/2022		
TAX OFFICE USE ONLY: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied By: N.H. Date: 8-10-22				



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CT80122 v1.9108/22/2022 12:22:58  
ACTEP

DEPOSIT Remittance Detail

## Summary Query

## Summary

Deposit No	Account No.	Remit Seq No.	Check No	Payment Amount	Payment Agreement No.					
IP013122	199899922880050									
Check/Receipt ages	Deposit No	Receipt Date	Remit Seq No	Check No	Payment Type	Payment Amount	Applied Amount	Transaction Type	Account No	Payer
	P20210000001	01/31/2022	50149658	1840	CH	\$6,111,023.51	\$6,056.91	PA	199899922880050	88888-COUNTY TAX OFF
	IP013122	01/30/2022	49796731	CC004285835	CR	\$9,446.64	\$9,446.64		199899922880050	30818572-JOSE GANDAR
	R030222585	01/30/2022	49796731	CC004285835	CR	\$0.00	\$3,389.73	TR	199899922880050	30818572-JOSE GANDAR
	R030222585	01/30/2022	49796731	CC004285835	CR	\$0.00	\$3,389.73	TR	199899922880050	30818572-JOSE GANDAR
	P20200000001	01/31/2021	46902105	1817	CH	\$6,036,397.91	\$7,155.79	PA	199899922880050	88888-COUNTY TAX OFF
	P20190001	01/31/2020	43721639	1791	CH	\$5,651,502.86	\$1,018.36	PA	199899922880050	88888-COUNTY TAX OFF
	P20180001	01/31/2019	40753029	88888	CH	\$5,173,266.47	\$576.33	PA	199899922880050	88888-COUNTY TAX OFF
	IP01251998	01/24/2019	40182795	CC002308160	CR	\$576.33	\$576.33	PA	199899922880050	26991998-LUIS GANDAR
	R030219498	01/24/2019	40182795	CC002308160	CR	\$0.00	\$576.33	TR	199899922880050	26991998-LUIS GANDAR
	R030219498	01/24/2019	40182795	CC002308160	CR	\$0.00	\$576.33	TR	199899922880050	26991998-LUIS GANDAR
	R030519167	01/24/2019	40182795	CC002308160	CR	\$0.00	\$576.33	TR	199899922880050	26991998-LUIS GANDAR
	R030519167	01/24/2019	40182795	CC002308160	CR	\$0.00	\$576.33	LG	199899922880050	26991998-LUIS GANDAR

Applied Total \$45,116.33



**TAX OFFICE  
RECEIVED**  
**AUG 17 2022**

**MARIA O. PASILLAS, RTA**  
**CITY OF EL PASO TAX ASSESSOR COLLECTOR**  
221 N. KANSAS, STE 300  
EL PASO, TX 79901

PH: (915) 212-0106 FAX: (915) 212-0107 Email: taxforms@elpasotexas.gov

**STRYKER ORTHOPAEDICS**  
**RYAN TAX COMPLIANCE**  
150 SOUTH FIFTH STREET SUITE 2500  
MINNEAPOLIS, MN 55402

OP ✓  
+2,500  
Type text here

Geo No. 2001-999-4092-0034	Prop ID 504444
Legal Description of the Property INV MACH SIGN VEH  120 PARAGON LN-207	
OWNER: STRYKER ORTHOPAEDICS	
2019 OVERAGE AMOUNT \$4,219.59	

1: CITY OF EL PASO, 3: EL PASO ISD, 6: COUNTY OF EL PASO, 7: EL PASO COMMUNITY COLLEGE, 8: UNIVERSITY MEDICAL CENTER OF EL PASO

Dear Taxpayer:

Our records indicate that an overpayment exists on the property tax account listed above as of the date of this letter. If you paid the taxes on this account and believe you are entitled to a refund, please complete the application below, sign it, and return it to our office. If the taxes were paid by your mortgage/title company or any other party, you must obtain a written letter of release in order for the refund to be issued in your name. If you did not make the payment(s) on this account, please forward this letter to the person who paid these taxes. You may also request the transfer of this overpayment to other tax accounts and/or tax years in the space provided or by attaching an additional sheet if necessary. Your application for refund must be submitted within three years from the date of the overpayment, or you waive the right to the refund (Sec. 31.11c). Governing body approval is required for refunds in excess of \$2500.

**APPLICATION FOR PROPERTY TAX REFUND:**

*This application must be completed, signed, and submitted with supporting documentation to be valid.*

Step 1. Identify the refund recipient. Show information for whom ever will be receiving the refund.	Who should the refund be to			
	Name: Ryan Tax Compliance Services LLC-Paying for Stryker Orthopedics			
	Address: 1233 West Loop S, Suite 1600			
	City, State, Zip: Houston, Tx 77027			
Step 2. Provide payment information. Please attach copy of cancelled check, original receipt, online payment confirmation or bank/credit card statement.	Daytime Phone No.: 713-629-0090 Ext. 13-2186		E-Mail Address: Katherine. Ortiz@ryan.com	
	Payment made by	Check No.	Date Paid	Amount Paid
	Check	1057	1/31/20	4,219.59
	TOTAL AMOUNT PAID (sum of the above amounts)			4,219.59
Step 3. Provide reason for this refund. Please list any accounts and/or years that you intended to pay with this overage.	Please check one of the following:			
	<input type="checkbox"/> I paid this account in error and I am entitled to the refund.			
	<input checked="" type="checkbox"/> I overpaid this account. Please refund the excess to the address listed in Step 1.			
	<input type="checkbox"/> I want this payment applied to next year's taxes.			
Step 4. Sign the form. Unsigned applications cannot be processed.	This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below):			
	By signing below, I hereby apply for the refund of the above-described taxes and certify that the information I have given on this form is true and correct. ( If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, Sec. 37.10. )			
	SIGNATURE OF REQUESTOR (REQUIRED) <i>Katherine Ortiz</i>		PRINTED NAME & DATE Katherine Ortiz 08-17-2022	
TAX OFFICE USE ONLY: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied By: <i>NN</i> Date: <i>8-18-22</i>				



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ACTEP

Deposit REMITTANCE Detail

## Summary Query

## Summary

Deposit No.		Account No.		Remit Seq No.		Check No.		Payment Amount		Payment Agreement No.	
B02132094		200199940920034									
Check/Receipt ages	Deposit No.	Receipt Date	Remit Seq No	Check No	Payment Type	Payment Amount	Applied Amount	Transaction Type	Account No	Payer	
	B02132094	01/31/2020	43725496	1057	CH	\$156,296.33	\$102,810.66	PA	200199940920034	24273661-RYAN TAX COI	
	B02132094	01/31/2020	43725496	1057	CH	\$156,296.33	\$4,219.59	LG	200199940920034	24273661-RYAN TAX COI	
	RC211230	01/31/2020	43725496	1057	CH	\$4,219.59	\$4,219.59	LG	200199940920034	30399150-STRYKER ORT	
	RC211230	01/31/2020	43725496	1057	CH	\$4,219.59	\$4,219.59	TR	200199940920034	24273661-RYAN TAX COI	
	RC220818	01/31/2020	43725496	1057	CH	\$4,219.59	\$4,219.59	TR	200199940920034	31458770-RYAN TAX COI	
	RC220818	01/31/2020	43725496	1057	CH	\$4,219.59	\$4,219.59	TR	200199940920034	30399150-STRYKER ORT	
	A01281975	01/28/2019	40199714	00000769	CH	\$153,009.80	\$105,488.36	PA	200199940920034	24273661-RYAN TAX COI	
	B02021875	01/31/2018	37587668	00000535	CH	\$115,549.71	\$99,426.04	PA	200199940920034	24273661-RYAN TAX COI	
	X0203172007	01/31/2017	34843376	00303	CH	\$92,404.80	\$83,120.02	PA	200199940920034	STRYKER ORTHOPEAEC	
	A01201675	01/20/2016	31025471	00000076	CH	\$45,327.09	\$43,655.82	PA	200199940920034	24273661-RYAN TAX COI	
	A06091541	06/09/2015	29286371	1161789	CH	\$3,839.50	\$69.18	PA	200199940920034	STRYKER ORTHOPEAEC	
	A06091541	06/09/2015	29286371	1161789	CH	\$3,839.50	\$3,770.32	LG	200199940920034	STRYKER ORTHOPEAEC	
Applied Total						\$925,567.64					



TAX OFFICE  
RECEIVED  
AUG 12 2022

MARIA O. PASILLAS, RTA  
CITY OF EL PASO TAX ASSESSOR COLLECTOR  
221 N. KANSAS, STE 300  
EL PASO, TX 79901

PH: (915) 212-0106 FAX: (915) 212-0107 Email: taxforms@elpasotexas.gov

TEXAS TITLE COMPANY  
1360 N LEE TREVINO DR SUITE 107  
EL PASO, TX 79936

OP ✓  
+2,500

Geo No. D377-999-001A-5100	Prop ID 386104
Legal Description of the Property DEL NORTE HEIGHTS TR 26 (7000 SQ FT) 1108 DEL MONTE ST 79915	
OWNER: REVELES AMAYELI A A	

2021 OVERAGE AMOUNT \$11,209.99

1: CITY OF EL PASO, 5: YSLETA ISD, 6: COUNTY OF EL PASO, 7: EL PASO COMMUNITY COLLEGE, 8: UNIVERSITY MEDICAL CENTER OF EL PASO

Dear Taxpayer:

Our records indicate that an overpayment exists on the property tax account listed above as of the date of this letter. If you paid the taxes on this account and believe you are entitled to a refund, please complete the application below, sign it, and return it to our office. If the taxes were paid by your mortgage/title company or any other party, you must obtain a written letter of release in order for the refund to be issued in your name. If you did not make the payment(s) on this account, please forward this letter to the person who paid these taxes. You may also request the transfer of this overpayment to other tax accounts and/or tax years in the space provided or by attaching an additional sheet if necessary. Your application for refund must be submitted within three years from the date of the overpayment, or you waive the right to the refund (Sec. 31.11c). Governing body approval is required for refunds in excess of \$2500.

**APPLICATION FOR PROPERTY TAX REFUND:**

This application must be completed, signed, and submitted with supporting documentation to be valid.

<b>Step 1. Identify the refund recipient.</b> Show information for whomever will be receiving the refund.	Who should the refund be issued to:			
	Name: <u>Texas Title</u>			
	Address: <u>1360 N. Lee Trevino Suite 107</u>			
	City, State, Zip: <u>El Paso, TX 79936</u>			
	Daytime Phone No.:	E-Mail Address:		
	<u>(915) 593-3400</u>	<u>mtoguinto@texas-title.com</u>		<u>any.ne</u>
<b>Step 2. Provide payment information.</b> Please attach copy of cancelled check, original receipt, online payment confirmation or bank/credit card statement.	Payment made by:	Check No.	Date Paid	Amount Paid
	<u>Texas Title</u>	<u>158856</u>	<u>12/30/21</u>	<u>\$14,326.91</u>
	<b>TOTAL AMOUNT PAID (sum of the above amounts)</b>			
<b>Step 3. Provide reason for this refund.</b> Please list any accounts and/or years that you intended to pay with this overage.	Please check one of the following:			
	<input type="checkbox"/> I paid this account in error and I am entitled to the refund.			
	<input checked="" type="checkbox"/> I overpaid this account. Please refund the excess to the address listed in Step 1.			
	<input type="checkbox"/> I want this payment applied to next year's taxes.			
	<input type="checkbox"/> This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below):			
<b>Step 4. Sign the form.</b> Unsigned applications cannot be processed.	By signing below, I hereby apply for the refund of the above-described taxes and certify that the information I have given on this form is true and correct. ( If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, Sec. 37.10. )			
	SIGNATURE OF REQUESTOR (REQUIRED)		PRINTED NAME & DATE	
	<u>Maria O. Pasillas</u>		<u>Maria Alice C. Pasillas</u> <u>8/8/22</u>	
TAX OFFICE USE ONLY: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied By: <u>NH</u> Date: <u>8-12-22</u>				



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ACTEP

DEPOSIT Remittance Detail

## Summary Query

## Summary

Deposit No		Account No		Remit Seq No		Check No		Payment Amount		Payment Agreement No.	
A12302165		D377999001A5100									
Check/Receipt ages	Deposit No	Receipt Date	Remit Seq No	Check No.	Payment Type	Payment Amount	Applied Amount	Transaction Type	Account No	Payer	
	A12302165	12/30/2021	48774249	158856	CH	\$14,326.91	\$13,187.85	LG	D377999001A5100	21022392-TEXAS TITLE C	
	A12302165	12/30/2021	48774249	158856	CH	\$14,326.91	\$1,139.06	PA	D377999001A5100	21022392-TEXAS TITLE C	
	R030722185	12/30/2021	48774249	158856	CH	\$0.00	\$1,977.86	LG	D377999001A5100	21022392-TEXAS TITLE C	
	R030722185	12/30/2021	48774249	158856	CH	\$0.00	\$1,977.86	TR	D377999001A5100	21022392-TEXAS TITLE C	
	EC06012185	05/28/2021	47478587	CC003773850	EC	\$2,782.01	\$2,782.01	PA	D377999001A5100	29848726-MICHELLE PR	
	IP01251998	01/24/2019	40182702	CC002306777	CR	\$967.60	\$967.60	PA	D377999001A5100	26991907-YVONNE RODI	
	IP01311898	01/30/2018	37466167	CC001908646	CR	\$838.64	\$838.64	PA	D377999001A5100	26129922-YVONNE RODI	
	M1622000001	12/22/2016	33466634	1057968	CH	\$30,897,837.33	\$805.43	PA	D377999001A5100	2200-GREATER EL PASC	
	M1522000001	12/10/2015	30315119	1028222	CH	\$26,619,452.13	\$783.71	PA	D377999001A5100	2200-GREATER EL PASC	
	M1422000001	12/15/2014	27275820	938965	CH	\$24,751,310.90	\$1,013.42	PA	D377999001A5100	2200-GREATER EL PASC	
	M1322000001	12/10/2013	24342370	903022	CH	\$22,068,111.60	\$879.23	PA	D377999001A5100	2200-GREATER EL PASC	
	M12220010001	12/13/2012	21789349	849251	CH	\$18,927,550.13	\$836.65	PA	D377999001A5100	2200-GREATER EL PASC	
Applied Total						\$33,813.35					





**TAX OFFICE  
RECEIVED**

**AUG 08 2022**

**MARIA O. PASILLAS, RTA  
CITY OF EL PASO TAX ASSESSOR COLLECTOR  
221 N. KANSAS, STE 300  
EL PASO, TX 79901**

PH: (915) 212-0106 FAX: (915) 212-0107 Email: taxforms@elpasotexas.gov

**PROSPERUS TITLE & ESCROW LLC  
1300 AIRWAY BLVD #108  
EL PASO, TX 79925**

<b>Geo No.</b> R221-999-0440-4900	<b>Prop ID</b> 176181
<b>Legal Description of the Property</b> 44 RANCHLAND HILLS #5 LOT 17 (6787 SQ FT)  7206 BENSON DR	
<b>OWNER:</b> VALLEJO BEN A (LE) & ORTEGA OLIVIA M	
<b>2021 OVERAGE AMOUNT \$3,875.92</b>	

OP  
+2,500

1 CITY OF EL PASO, 5 YSLETA ISD, 6 COUNTY OF EL PASO, 7 EL PASO COMMUNITY COLLEGE, 8 UNIVERSITY MEDICAL CENTER OF EL PASO

**Dear Taxpayer:**

Our records indicate that an overpayment exists on the property tax account listed above as of the date of this letter. If you paid the taxes on this account and believe you are entitled to a refund, please complete the application below, sign it, and return it to our office. If the taxes were paid by your mortgage/title company or any other party, you must obtain a written letter of release in order for the refund to be issued in your name. If you did not make the payment(s) on this account, please forward this letter to the person who paid those taxes. You may also request the transfer of this overpayment to other tax accounts and/or tax years in the space provided or by attaching an additional sheet if necessary. Your application for refund must be submitted within three years from the date of the overpayment, or you waive the right to the refund (Sec. 31.11e). Governing body approval is required for refunds in excess of \$2500.

**APPLICATION FOR PROPERTY TAX REFUND:** This application must be completed, signed, and submitted with supporting documentation to be valid.

<b>Step 1. Identify the refund recipient.</b> Show information for whom ever will be receiving the refund	<b>Who should the refund be issued to:</b>			
	Name: <u>Prosperus Title &amp; Escrow</u>			
	Address: <u>1300 Airway, Ste 108</u>			
	City, State, Zip: <u>El Paso TX 79925</u>			
	Daytime Phone No. <u>(915) 288-2468</u>		E-Mail Address: <u>Olivia.Chavez@prosperus</u>	
<b>Step 2. Provide payment information.</b> Please attach copy of cancelled check, original receipt, online payment confirmation or bank/credit card statement.	<b>Payment made by:</b>	<b>Check No.</b>	<b>Date Paid</b>	<b>Amount Paid</b>
	<u>Prosperus Title</u>	<u>26813</u>	<u>7/24/22</u>	<u>\$14,500.00</u>
	<b>TOTAL AMOUNT PAID (sum of the above amounts)</b>			
<b>Step 3. Provide reason for this refund.</b> Please list any accounts and/or years that you intended to pay with this overage.	<b>Please check one of the following:</b>			
	<input type="checkbox"/> I paid this account in error and I am entitled to the refund.			
	<input checked="" type="checkbox"/> I overpaid this account. Please refund the excess to the address listed in Step 1.			
	<input type="checkbox"/> I want this payment applied to next year's taxes.			
	<input type="checkbox"/> This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below)			
<b>Step 4. Sign the form.</b> Unsigned applications cannot be processed.	By signing below, I hereby apply for the refund of the above-described taxes and certify that the information I have given on this form is true and correct. (If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, Sec. 37.10.)			
	<b>SIGNATURE OF REQUESTOR (REQUIRED)</b>		<b>PRINTED NAME &amp; DATE</b>	
	<u>[Signature]</u>		<u>Olivia Chavez 8/8/22</u>	
<b>TAX OFFICE USE ONLY</b>	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Denied	By: <u>N.H.</u>	Date: <u>8-8-22</u>

UZR  
CT80122 v1.91ACCOUNT NO (R22199904404900): HOLDING CHECK #26813 FOR \$14,500.00 FROM PROSPERUS  
TITLE IN 2021 TAX YR OP 8001 FOR THE ANTICIPATION OF THE REMOVAL OF EXEMPTIONS08/22/2022 12.22.58  
ACTEP

DEPOSIT Remittance Detail

## Summary Query

## Summary

Deposit No.	Account No.	Remit Seq No.	Check No.	Payment Amount	Payment Agreement No.
A07262294	R22199904404900				

Check/Receipt ages	Deposit No.	Receipt Date	Remit Seq No.	Check No.	Payment Type	Payment Amount	Applied Amount	Transaction Type	Account No.	Payer
	A07262294	07/26/2022	50828652	26813	OH	\$14,500.00	\$3,875.92	LG	R22199904404900	27571424-PROSPERUS
	A07262294	07/26/2022	50828652	26813	CH	\$14,500.00	\$10,624.08	PA	R22199904404900	27571424-PROSPERUS
	EC05202185	05/19/2021	47424625	CC003762010	EC	\$300.00	\$300.00	PA	R22199904404900	29821336-SANDRA FELA
	EC04212185	04/20/2021	47321554	CC003733817	EC	\$300.00	\$300.00	PA	R22199904404900	29761619-SANDRA FELA
	EC03222185	03/20/2021	47147186	CC003687050	EC	\$300.00	\$300.00	PA	R22199904404900	29667258-BEN ALLEN VA
	EC02222185	02/20/2021	46946372	CC003627467	EC	\$300.00	\$300.00	PA	R22199904404900	29557939-BEN ALLEN VA
	EC01202198	01/20/2021	46152289	CC003446962	EC	\$300.00	\$300.00	PA	R22199904404900	29208095-BEN VALLEJO
	EC12312098	12/31/2020	45628278	CC003350594	EC	\$2,360.49	\$2,360.49	PA	R22199904404900	29017636-SANDRA FELA
	EC12212098	12/20/2020	45399379	CC003298076	EC	\$300.00	\$300.00	PA	R22199904404900	28942456-BEN VALLEJO
	EC11202098	11/20/2020	44959785	CC003228875	EC	\$300.00	\$300.00	PA	R22199904404900	28803442-BEN ALLEN VA
	R0311201298	11/20/2020	44959785	CC003228875	EC	\$0.00	\$300.00	TR	R22199904404900	28803442-BEN ALLEN VA
	R0311201298	11/20/2020	44959785	CC003228875	EC	\$0.00	\$300.00	TR	R22199904404900	28803442-BEN ALLEN VA

Applied Total \$40,820.35



Legislation Text

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File #: 22-1127, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**District 3**

Members of the City Council, Representative Cassandra Hernandez, (915) 212-0003

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Accept the donation of \$470 worth of school supplies from El Paso Disposal for community engagement events in District 3.

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
AGENDA SUMMARY FORM**

**DEPARTMENT:** Mayor & Council

**AGENDA DATE:** 8.30.22

**CONTACT PERSON NAME AND PHONE NUMBER:** Representative Cassandra Hernandez ~ 915.212.0003

**DISTRICT(S) AFFECTED:**

**STRATEGIC GOAL**

Goal 5 - Promote Transparent and Consistent Communication Amongst All Members of the Community

**SUBJECT:**

**APPROVE** a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

For Notation Purposes:

Accept the donation of \$470 worth of school supplies from El Paso Disposal for community engagement events in District 3.

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

The Office of Representative Hernandez host yearly initiatives for District 3 and the community, which are funded through a combination of donations from community partners and with District 3 discretionary funds.

Some initiatives include: providing turkeys to families, schools and civic associations who provide meals to less fortunate families; Halloween Drive-Thrus to allow children to get candy and dental supplies during the pandemic, instead of going door-to-door trick-or-treating; block parties, as well as a toy and grocery-gift card giveaways for the Sambrano neighborhood in South Central; and providing supplies and goodies to our senior centers.

In addition, this year the Office of District 3 plans to host a *Movies in the Park* to engage the newly acquired parts of the District, as a result of redistricting.

We recognize the need and togetherness these events bring to our neighborhoods. Through the community partners willing to support District 3 through their donations, we are able to make these events possible.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

Yes, District 3 has notated donations for past community initiatives held in District 3.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

N/A

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





Legislation Text

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File #: 22-1123, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 4**

Members of the City Council, Representative Joe Molinar, (915) 212-0004

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

For notation pursuant to Section 2.92.080 of the City Code, receipt of campaign contributions by Representative Joe Molinar in the amount of \$5,000.00 from the El Paso Municipal Police Officers Association.



Legislation Text

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File #: 22-1130, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 6**

Members of the City Council, Representative Claudia L. Rodriguez, (915) 212-0006

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

For notation pursuant to Section 2.92.080 of the City Code, receipt of the following campaign contributions by City Representative Claudia L. Rodriguez, District 6 : \$80.00 from Claudia and Manuel Vasquez; \$80.00 from Sylvia and Genaro Ruvalcaba; \$180.00 from Jese Rivera; \$150.00 from Alicia Rivera; \$100.00 from Dina and Adrian Zamarripa; \$20.00 from Soledad Cadena; \$160.00 from Aybil Guzman; \$100.00 from Rafael De La Rosa; \$100.00 from Lizette and Ruben Reyes; \$100.00 from Elisa and Marcos Rivera; \$40.00 from Deborah Barron; \$100.00 from Erika Urbina; \$100.00 from Carlos Sierra; \$100.00 from Manuel and Evelyn Urbina; \$200.00 from Rick and Sharon Bonart; \$100.00 from Lizzet and Jazmine Urbina; \$500.00 from Ben Ivey; \$2,500.00 from David Cordero; \$2,500.00 from Steve Ortega; \$2,500.00 from JP Bryan.



Legislation Text

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File #: 22-1077, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

Municipal Court, Lilia Worrell, (915) 212-5822

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to the Strategic Plan is subsection 7.5 - Set One Standard for Infrastructure Across the City.

**Award Summary:**

The award of Solicitation 2022-0535 Janitorial Services - Municipal Court to Ace Government Services, LLC for an initial three (3) year term for an estimated amount of \$202,797.00. The award also includes a two (2) year option for an estimated amount of \$135,198.00. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$337,995.00. This contract will allow janitorial services at municipal court.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$71,253.00 for the initial term, which represents a 54.17% increase due to increased labor costs.

Department:	Municipal Court
Vendor:	Ace Government Services, LLC
	El Paso, TX
Item(s):	All
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$67,599.00
Initial Term Estimated Award:	\$202,797.00 (3 years)
Total Estimated Award:	\$337,995.00 (5 years)
Account No.:	111 - 1000 - 522060 - 11010
Funding Source:	General Fund
District(s):	All

This is a Best Value contract.

The Purchasing & Strategic Sourcing and Municipal Courts Departments recommend award as indicated to Ace Government Services, LLC, the bidder offering the best value bid.

In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.



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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Lilia Worrell, Municipal Courts Director, (915) 212-5822

Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

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

**SUBGOAL:** 7.5 – Set One Standard for Infrastructure Across the City

**SUBJECT:**

The award of solicitation 2022-0535 Janitorial Services – Municipal Court to Ace Government Services, LLC for an initial three (3) year term for an estimated amount of \$202,797.00. The award also includes a two (2) year option for an estimated amount of \$135,198.00. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$337,995.00.

**BACKGROUND / DISCUSSION:**

This contract will allow janitorial services at municipal court.

**SELECTION SUMMARY:**

Solicitation was advertised on May 31, 2022 and June 7, 2022. The solicitation was posted on City website on May 31, 2022. There were a total twenty-six (26) viewers online; six (6) bids were received; five (5) from local suppliers.

**CONTRACT VARIANCE:**

The difference based in comparison to the previous contract is as follows: An increase of \$71,253.00 for the initial term, which represents a 54.17% increase due to increased labor costs.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$202,797.00

Funding Source: General Fund

Account: 111 – 1000 – 522060 - 11010

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

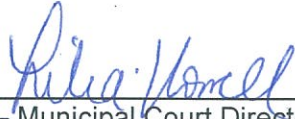
PRIMARY DEPARTMENT: Municipal Court

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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

DEPARTMENT HEAD:



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Lilia Worrell – Municipal Court Director

**COUNCIL PROJECT FORM  
(BEST VALUE)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **CONSENT** agenda for the Council Meeting of **August 30, 2022**.

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

The linkage to the Strategic Plan is subsection 7.5 – Set One Standard for Infrastructure Across the City.

**Award Summary:**

The award of solicitation 2022-0535 Janitorial Services – Municipal Court to Ace Government Services, LLC for an initial three (3) year term for an estimated amount of \$202,797.00. The award also includes a two (2) year option for an estimated amount of \$135,198.00. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$337,995.00. This contract will allow janitorial services at municipal court.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$71,253.00 for the initial term, which represents a 54.17% increase due to increased labor costs.

Department:	Municipal Court
Vendor:	Ace Government Services, LLC El Paso, TX
Item(s):	All
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$67,599.00
Initial Term Estimated Award:	\$202,797.00 (3 years)
Total Estimated Award:	\$337,995.00 (5 years)
Account No.:	111 – 1000 – 522060 – 11010
Funding Source:	General Fund
District(s):	All

This is a Best Value contract.

The Purchasing & Strategic Sourcing and Municipal Courts Departments recommend award as indicated to Ace Government Services, LLC, the bidder offering the best value bid.

In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*

Committee Scoresheet							
CITY OF EL PASO BV SCORESHEET							
PROJECT: 2022-0535 Janitorial Services - Municipal Court							
Evaluation of Submittal							
	MAX POINTS	Ace Government Services, LLC	PJS of El Paso, Inc.	Crataegus, LLC dba Jani-King of El Paso	J. Carrizal General Construction	Eagle Janitorial	GFE Buckingham LLC
Factor A - Price	30	25.86	21.91	25.44	20.45	30.00	6.36
Factor B - Experience - Comparable Contracts	30	21.00	7.00	14.33	13.33	3.33	0.00
Factor C - References	30	30.00	19.20	8.80	0.00	0.00	0.00
Factor D – Employee Medical Benefits and Incentives	10	2.00	2.00	0.00	2.00	0.00	0.00
<b>TOTAL SCORE</b>	<b>100</b>	<b>78.86</b>	<b>50.11</b>	<b>48.57</b>	<b>35.78</b>	<b>33.33</b>	<b>6.36</b>
		1	2	3	4	5	6



CITY OF EL PASO  
BID TABULATION FORM



Project Name: Janitorial Services - Municipal Court  
Bid Opening Date: June 29, 2022

Solicitation #: 2022-0535  
Department: Streets & Maintenance

				Ace Government Services, LLC El Paso, TX				Eagle Janitorial El Paso, TX				GFE Buckingham LLC El Paso, TX			
				Bidder 1 of 6				Bidder 2 of 6				Bidder 3 of 6			
ITEM No.	Location	Unit of Measure	Total Hours per Month (B)	Hourly Rate (A)	Monthly Amount C = A x B (C)	Yearly Total D=C x 12 (D)	3-Year Total E=D x 3 ( E )	Hourly Rate (A)	Monthly Amount C = A x B (C)	Yearly Total D=C x 12 (D)	3-Year Total E=D x 3 ( E )	Hourly Rate (A)	Monthly Amount C = A x B (C)	Yearly Total D=C x 12 (D)	3-Year Total E=D x 3 ( E )
1	Municipal Court	Hourly	304.5	\$18.50	\$5,633.25	\$67,599.00	\$202,797.00	\$15.95	\$4,856.78	\$58,281.30	\$174,843.90	\$75.20	\$22,898.40 Bidder's Price \$22,897.49	\$274,780.80 Bidder's Price \$274,769.84	\$824,342.40 Bidder's Price \$824,309.51
TOTAL						\$67,599.00	\$202,797.00			\$58,281.30	\$174,843.90			\$274,780.80 Bidder's Price \$274,769.84	\$824,342.40 Bidder's Price \$824,309.51

NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

APPROVED BY:           /s/          

DATE: 07/05/2022



CITY OF EL PASO  
BID TABULATION FORM



Project Name: Janitorial Services - Municipal Court  
Bid Opening Date: June 29, 2022

Solicitation #: 2022-0535  
Department: Streets & Maintenance

	Ace Government Services, LLC El Paso, TX	Eagle Janitorial El Paso, TX	GFE Buckingham LLC El Paso, TX
	Bidder 1 of 6	Bidder 2 of 6	Bidder 3 of 6
<p><u>OPTION TO EXTEND THE TERM OF THE AGREEMENT</u></p> <p>THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND.</p> <p>BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:</p> <p>TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR</p>			
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Left Blank
NO OPTION OFFERED	<input type="checkbox"/>	<input type="checkbox"/>	Left Blank
AMENDMENTS ACKNOWLEDGED:	Yes	No	Yes

NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

APPROVED BY:   /s/  

DATE:   07/05/2022



CITY OF EL PASO  
BID TABULATION FORM



Project Name: Janitorial Services - Municipal Court  
Bid Opening Date: June 29, 2022

Solicitation #: 2022-0535  
Department: Streets & Maintenance

				J Carrizal General Construction Inc. El Paso, TX				Jani-King of El Paso Albuquerque, NM				PJS of El Paso, Inc. El Paso, TX			
				Bidder 4 of 6				Bidder 5 of 6				Bidder 6 of 6			
ITEM No.	Location	Unit of Measure	Total Hours per Month (B)	Hourly Rate (A)	Monthly Amount C = A x B (C)	Yearly Total D=C x 12 (D)	3-Year Total E=D x 3 ( E )	Hourly Rate (A)	Monthly Amount C = A x B (C)	Yearly Total D=C x 12 (D)	3-Year Total E=D x 3 ( E )	Hourly Rate (A)	Monthly Amount C = A x B (C)	Yearly Total D=C x 12 (D)	3-Year Total E=D x 3 ( E )
1	Municipal Court	Hourly	304.5	\$23.40	\$7,125.30	\$85,503.60	\$256,510.80	\$18.81	\$5,727.65	\$68,731.74	\$206,195.22	\$21.84	\$6,650.28	\$79,803.36	\$239,410.08
TOTAL						\$85,503.60	\$256,510.80			\$68,731.74	\$206,195.22			\$79,803.36	\$239,410.08

NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

APPROVED BY:   /s/  

DATE:   07/05/2022



CITY OF EL PASO  
BID TABULATION FORM



Project Name: Janitorial Services - Municipal Court  
Bid Opening Date: June 29, 2022

Solicitation #: 2022-0535  
Department: Streets & Maintenance

	J Carrizal General Construction Inc. El Paso, TX	Jani-King of El Paso Albuquerque, NM	PJS of El Paso, Inc. El Paso, TX
	Bidder 4 of 6	Bidder 5 of 6	Bidder 6 of 6
<p><u>OPTION TO EXTEND THE TERM OF THE AGREEMENT</u></p> <p>THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND.</p> <p>BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:</p>			
TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NO OPTION OFFERED	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AMENDMENTS ACKNOWLEDGED:	Yes	Yes	Yes
BIDS SOLICITED: 180    LOCAL BIDS SOLICITED: 99    BIDS RECEIVED: 6    LOCAL BIDS RECEIVED: 5    NO BID: 7			

NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

APPROVED BY:   /s/  

DATE:   07/05/2022



Participant Name

- 1 GFE Buckingham LLC
- 2 J Carrizal General Constructio
- 3 PJS of El Paso, Inc.
- 4 Ace Government Services LLC
- 5 Muncie Transit Supply (Muncie Reclamation and Supply)
- 6 Altex Electronics
- 7 Triangle Construction Services (EMJ Corporation)
- 8 Hypertec USA Inc, (Hypertec Direct)
- 9 Crataegus, LLC. dba Jani-King of El Paso
- 10 WW Grainger
- 11 SOLUTIONS PEST AND LAWN
- 12 Unipak Corp.
- 13 300 EXTERMINATOR TERMITE AND PEST CONTROL, LLC
- 14 3rd Generation Services, LLC
- 15 AAA General Contractors, LLC
- 16 ABBA CONSTRUCTION, LLC
- 17 Aim Remodeling and Construction (MST Consulting)
- 18 Allied Paving
- 19 American Facility Services, Inc.
- 20 Arrow Construction (CIM Ventures)
- 21 ASC General Contractors
- 22 ATS Inc (Advanced Transportation Services Inc)
- 23 Aztec Contractors Inc
- 24 Aztec Contractors, Inc.
- 25 Baron Chemical Janitorial and Cleaning Supplies
- 26 Batteriesplusbulbs442 (Gorman Batteries LLC)
- 27 BE! GRAPHICS
- 28 Bella Luna Engineering and Building Maintenance
- 29 Bio Dyne Chemical Co. (MJ Mader Enterprises Inc.)
- 30 Blue Sky Supplies, LLC
- 31 Bob's Pest Control, LLC
- 32 Border Tire
- 33 Brady Industries (Brady Industries of Texas LLC)
- 34 Branavi Clean Solutions
- 35 Bright Growing Landscape and Maintenance (Guma Services, LLC)
- 36 Burke Insurance Group (Risk Strategies Company)
- 37 Busch Systems International Inc.
- 38 C & L Janitorial Services
- 39 Chato's Quarter Horses & Alfalfa Hay Sales
- 40 City of El Paso Strategic Partners
- 41 Clean Sweep Janitorial Services
- 42 Colliers (New Mexico Real Estate Advisors Inc)
- 43 Complete Supply
- 44 Construction Journal
- 45 Construction Reporter
- 46 continental battery company
- 47 Continental Termite & Pest Control, Inc.
- 48 Copper State Bolt & Nut
- 49 Coretech
- 50 D&H United Fueling Solutions
- 51 D.A.A.B. LLC
- 52 DAI Scientific Equipment Inc

- 53 dale borens service supply
- 54 Delgado's Repair and Maintenance
- 55 Delta Pest Control & Lawn Service (Delta Unlimited LLC)
- 56 Dent Enterprises LLC
- 57 Denver Magnetic, Inc
- 58 DESERT ELECTRICAL SUPPLY, INC.
- 59 Desert Paint Store
- 60 DH Pace El Paso (DH Pace Company Inc)
- 61 Discount Banners and Signs Inc
- 62 Divine Power Group (Boddicker Ventures, LLC)
- 63 DIVISION 7 LLC
- 64 Dunn-Edwards Corportation
- 65 Dynamic Contracts Consultants LLC
- 66 eagle janitorial services
- 67 Efficio Construction Services LLC
- 68 EL PASO CASTERS & MATERIAL HANDLING (CASTERS UNLIMITED)
- 69 EL PASO METALS & SUPPLY,INC
- 70 el paso trench safety inc
- 71 ERMIC Aviation Services
- 72 Freedom environmental group
- 73 G. A. Braun, Inc.
- 74 GARD Specialists
- 75 GBSON & GBSON LLC
- 76 Generation H Cleaning Services LLC
- 77 Giant Electrical Services
- 78 Global Containers & Custom Packaging Inc.
- 79 GLOBAL SUPPLY & SERVICE INC.
- 80 Goetting Construction Co.
- 81 Goodwill Services Inc.
- 82 Gracen Engineering & Construction, Inc.
- 83 Graybar electric
- 84 Harrison Bros. Inc. (harrison)
- 85 Hawk Construction
- 86 HITEQ COMPUTER SYSTEMS (PROLEAF CORPORATION)
- 87 Holiday Inn Express & Suites- Sunland Park Area
- 88 Homeland Industrial Supply (Homeland Industrial Supply Inc)
- 89 Howdy Resources (CNH Construction LLC)
- 90 INTERBORO PACKAGING CORPORATION
- 91 Ironcompany.com, LLC
- 92 Jamieson Facility Services
- 93 Jobe Materials
- 94 JR Compass LLC
- 95 Jurado Construction Ilc
- 96 Kimball Midwest (Midwest Motor Supply Co. Inc.)
- 97 KreativDesk (Tomety's Inc)
- 98 KS Construction LLC
- 99 LABSOURCE INC
- 100 LD Supply Company, Inc.
- 101 Liberty Office Products
- 102 Life Landscaping
- 103 Li-Neon Media Group
- 104 Lobo Distribution LLC
- 105 MACNEILL AND SONS GENERAL CONTRACTORS
- 106 MAID IN BLISS,LLC
- 107 Maintenance Unlimited, Inc.

- 108 Mayer's Glass & Construction
- 109 Mayfield Pool Supply, LP
- 110 McKenzie Development LLC
- 111 Mean Clean LLC
- 112 Medaserv (Strong Medical Partners LLC)
- 113 Medlock Commercial Contractors, LLC.
- 114 MG Evergreen LLC
- 115 Mirador Enterprises, Inc. (Mirador Enterprises)
- 116 Mission Linen Supply
- 117 Mister Car Wash
- 118 Momar Inc
- 119 NEBULA ADVISERS LLC
- 120 NorrisLeal, LLC
- 121 North America Procurement Council Inc., PBC
- 122 One Stop Janitorial Services LLC
- 123 OVOL USA (Western BRW-Bosworth)
- 124 Owens Realty Services
- 125 P&V Distributing
- 126 P&Y Pump Service (P&Y Mobile Wash Inc)
- 127 Pannell Industries Inc
- 128 PERIKIN Enterprises LLC
- 129 piper weatherford
- 130 Pollock Investments Inc (Pollock Orora)
- 131 Possible Missions, Inc.
- 132 Prestige Construction Group
- 133 Pritchard Industries
- 134 PYRAMID SCHOOL PRODUCTS (PYRAMID PAPER COMPANY)
- 135 Quality MRO (Price Global Logistics LLC)
- 136 RAD Painting (Ricardo DeLucio)
- 137 Reflective Apparel
- 138 RENT A TRAILER LLC (Carlos Fraire)
- 139 Rentokil North America, Inc. (Target Specialty Products)
- 140 Roger Brown Co. LLC
- 141 Royal Imaging Solutions (Royal Media Network, Inc.)
- 142 Safe Space Cleaning Services
- 143 Safety-Kleen
- 144 School Specialty LLC
- 145 Scotwood Industries, LLC
- 146 Servin, LLC
- 147 Sherwin Williams Company
- 148 Sid Tools Inc. dba MSC Industrial Supply
- 149 Sidi Corp Home LLC
- 150 SJI and Associates LLC
- 151 SMI Facility Services (Supreme Maintenance, Inc.)
- 152 Socorro ISD
- 153 Southwest Premier Services, LLC
- 154 Southwestern Mill Distributors
- 155 Spartan Construction of TX, Inc.
- 156 Spectrum Paper
- 157 State Industrial Products
- 158 Stiles General Contractors LLC
- 159 Sunset Survival & First Aid Inc
- 160 Technical Building Services (JiVG Enterprises LLC)
- 161 TELSUPPLIERS LLC
- 162 Texas Boombox Factory (Texas boombox Factory)

- 163 Texas Correctional Industries (Texas Department of Criminal Justice)
- 164 The PlanIt Room
- 165 Tough Shirts
- 166 Travis Association for the Blind - Austin, TX
- 167 United Laboratories, Inc
- 168 Urban Restoration Group U.S. Inc.
- 169 VersaTables
- 170 Virtual Builders Exchange
- 171 VJ Capital Properties, Ltd.
- 172 Wassco Corporation
- 173 WCD Enterprises, LLC (Dryden)
- 174 West Texas Chiller Solutions
- 175 WESTERN JANITORIAL SERVICE INC
- 176 WinSupply of El Paso (WinSupply of El Paso TX Co)
- 177 Winsupply W El Paso
- 178 Ysleta ISD
- 179 Yucca Contracting (Israel Vaquera)
- 180 Zep Sales and Service (Acuity Specialty Products, Inc)



Legislation Text

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File #: 22-1118, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
Manager's Office, Robert Cortinas, (915) 212-1062

City

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to Strategic Plan is subsection 6.6 - Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.

**Award Summary:**

That in accordance with the City's Debt Management Policy, the List of Qualified Professional Underwriters compiled from Solicitation 2022-0472R is hereby approved and the City Manager or his designee is authorized to select the appropriate underwriting firms to provide underwriting services for future City debt issuances or other financings from the List in rotating order. The selection and rotation of the underwriting firm will depend on the number of firms necessary for a particular issuance, which will vary based on the size and complexity of the issuance. All associated fees will be negotiated at the time of issuance. Said List shall remain in effect from August 30, 2022 through August 29, 2027, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee. Although the City anticipates using this list as the basis for selecting underwriters for future use, the City reserves the right to solicit underwriters for certain future debt instruments that, in the sole opinion of the City, require additional consideration or specialty.

1. Barclays Capital Inc.
2. Cabrera Capital Markets, Inc.
3. Estrada Hinojosa & Company, Inc.
4. Frost Bank
5. Jefferies Financial Group Inc. DBA Jefferies LLC
6. J.P. Morgan Broker-Dealer Holding, Inc. DBA J.P. Morgan Securities LLC
7. Loop Capital LLC DBA Loop Capital Markets LLC
8. Morgan Stanley Domestic Holdings, Inc. DBA Morgan Stanley & Co. LLC
9. Oppenheimer & Co., Inc
10. Piper Sandler & Co
11. Raymond James & Associates, Inc.
12. RBC Capital Markets, LLC
13. Samuel A. Ramirez & Co., Inc.

- 14. Siebert Williams Shank & Co., LLC
- 15. Stephens Inc.
- 16. Stifel, Nicolaus & Company, Inc.
- 17. UMB Bank, N.A.

This is a Request for Proposals, requirements contract.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** NA

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Robert Cortinas, Chief Financial Officer/Deputy City Manager, (915) 212-1062  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** 6: Set the Standard for Sound Governance and Fiscal Management.

**SUBGOAL:** 6.6 - Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.

**SUBJECT:**

That in accordance with the City's Debt Management Policy, the List of Qualified Professional Underwriters compiled from Solicitation 2022-0472R (attached as "Exhibit A") is hereby approved and the City Manager or his designee is authorized to select the appropriate underwriting firms to provide underwriting services for future City debt issuances or other financings from the List in rotating order. The selection and rotation of the underwriting firm will depend on the number of firms necessary for a particular issuance, which will vary based on the size and complexity of the issuance. All associated fees will be negotiated at the time of issuance. Said List shall remain in effect from August 30, 2022 through August 29, 2027, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee. Although the City anticipates using this list as the basis for selecting underwriters for future use, the City reserves the right to solicit underwriters for certain future debt instruments that, in the sole opinion of the City, require additional consideration or specialty.

**BACKGROUND / DISCUSSION:**

This contract will provide professional underwriting services related to the authorization and issuance of debt instruments or other securities as requested by the city.

**SELECTION SUMMARY:**

Solicitation was advertised on February 1, 2022 and February 8, 2022. The solicitation was posted on City website on February 1, 2022. The email (Purmail) notification was sent out on February 3, 2022. There was a total of fifty-three (53) viewers online; twenty (20) proposals were received; none being local suppliers.

**CONTRACT VARIANCE:**

NA

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

NA

**AMOUNT AND SOURCE OF FUNDING:**

Funded through future bond issuances or other debt instruments issued

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  X  YES   NO**

**PRIMARY DEPARTMENT:** City Manager’s Office  
**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

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

**DEPARTMENT HEAD:**

*Robert Cortinas*

---

Robert Cortinas, Chief Financial Officer/Deputy City Manager



**COUNCIL PROJECT FORM  
(RFP)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **CONSENT** agenda for the Council Meeting of **August 30, 2022.**

**STRATEGIC GOAL NO. 6: Set the Standard for Sound Governance and Fiscal Management.**

The linkage to Strategic Plan is subsection 6.6 - Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.

**Award Summary:**

That in accordance with the City's Debt Management Policy, the List of Qualified Professional Underwriters compiled from Solicitation 2022-0472R (attached as "Exhibit A") is hereby approved and the City Manager or his designee is authorized to select the appropriate underwriting firms to provide underwriting services for future City debt issuances or other financings from the List in rotating order. The selection and rotation of the underwriting firm will depend on the number of firms necessary for a particular issuance, which will vary based on the size and complexity of the issuance. All associated fees will be negotiated at the time of issuance. Said List shall remain in effect from August 30, 2022 through August 29, 2027, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee. Although the City anticipates using this list as the basis for selecting underwriters for future use, the City reserves the right to solicit underwriters for certain future debt instruments that, in the sole opinion of the City, require additional consideration or specialty.

1. Barclays Capital Inc.
2. Cabrera Capital Markets, Inc.
3. Estrada Hinojosa & Company, Inc.
4. Frost Bank
5. Jefferies Financial Group Inc. DBA Jefferies LLC
6. J.P. Morgan Broker-Dealer Holding, Inc. DBA J.P. Morgan Securities LLC
7. Loop Capital LLC DBA Loop Capital Markets LLC
8. Morgan Stanley Domestic Holdings, Inc. DBA Morgan Stanley & Co. LLC
9. Oppenheimer & Co., Inc
10. Piper Sandler & Co
11. Raymond James & Associates, Inc.
12. RBC Capital Markets, LLC
13. Samuel A. Ramirez & Co., Inc.
14. Siebert Williams Shank & Co., LLC
15. Stephens Inc.
16. Stifel, Nicolaus & Company, Inc.
17. UMB Bank, n.a.

This is a Request for Proposals, requirements contract.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*

Committee Scoresheet																					
CITY OF EL PASO RFP SCORESHEET																					
PROJECT: 2022-0472R Professional Underwriter Services																					
Evaluation of Submittal																					
		J.P. Morgan Broker-Dealer Holding, Inc. DBA J.P. Morgan Securities LLC Brooklyn, NY	RBC Capital Markets, LLC Jersey City, NJ	Stifel, Nicolaus & Company, Inc. Saint Louis, MO	Raymond James & Associates, Inc. St. Petersburg, FL	Stephens Inc. Little Rock, AR	Barclays Capital Inc. New York, NY	UMB Bank, n.a. San Antonio, TX	Siebert Williams Shank & Co., LLC New York, NY	Morgan Stanley Domestic Holdings, Inc. DBA Morgan Stanley & Co. LLC New York, NY	Estrada Hinojosa & Company, Inc. Dallas, TX	Jefferies Financial Group Inc. DBA Jefferies LLC New York, NY	Piper Sandler & Co Minneapolis, MN	Oppenheimer & Co., Inc. New York, NY	Samuel A. Ramirez & Co., Inc. New York, NY	Cabrera Capital Markets, Inc. Chicago, IL	Loop Capital LLC DBA Loop Capital Markets LLC Chicago, IL	Frost Bank San Antonio, TX	Rice Securities, LLC DBA Rice Financial Products Company Houston, TX	UBS Financial Services Inc. Weehawken, NJ	First Horizon Bank DBA FHN Financial Capital Markets, a division of First Horizon Bank Memphis, TN
	MAX POINTS																				
Factor A - Price	35	35.00	22.15	24.92	21.46	23.96	19.60	26.62	26.92	19.29	20.22	15.68	17.54	19.84	16.40	20.79	18.91	15.46	15.31	0.00	0.00
Factor B - Capabilities	20	20.00	19.67	18.67	19.67	17.00	20.00	16.67	16.67	19.00	16.67	19.67	19.00	16.67	19.33	14.67	15.67	17.00	14.67	0.00	0.00
Factor C - Experience	20	19.67	19.67	17.00	19.33	19.00	20.00	16.00	16.67	19.00	19.67	19.33	19.00	18.33	19.00	17.33	16.00	17.00	15.67	0.00	0.00
Factor D - Personnel	10	10.00	10.00	10.00	10.00	10.00	10.00	9.00	8.33	9.67	10.00	9.67	10.00	10.00	10.00	10.00	10.00	9.00	9.33	0.00	0.00
Factor E - Local Support and Knowledge	10	7.33	9.00	8.67	7.00	7.67	7.00	8.00	7.00	7.67	7.00	9.00	7.33	8.33	7.00	7.00	7.67	8.33	6.00	0.00	0.00
Factor F - Other Considerations	5	5.00	5.00	5.00	5.00	4.33	5.00	5.00	5.00	5.00	5.00	5.00	5.00	3.67	5.00	5.00	5.00	5.00	5.00	0.00	0.00
TOTAL SCORE	100	97.00	85.49	84.25	82.46	81.96	81.60	81.29	80.59	79.63	78.56	78.35	77.87	76.84	76.73	74.79	73.24	71.80	65.98	0.00	0.00
Rank		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	Deemed non-responsive	Deemed non-responsive



**CITY OF EL PASO**  
**REQUEST FOR PROPOSALS TABULATION FORM**



**Bid Opening Date: March 23, 2022**

**Solicitation #: 2022-0472R**

**Project Name: Professional Underwriter Services**

**Department: City Manager's Office**

<b>BIDDER'S NAME:</b>	<b>LOCATION:</b>	<b>AMENDMENT(S) ACKNOWLEDGED:</b>
Barclays Capital Inc.	New York, NY	Yes
Cabrera Capital Markets, Inc.	Chicago, IL	No
Estrada Hinojosa & Company, Inc.	Dallas, TX	No
First Horizon Bank DBA FHN Financial Capital Markets, a division of First Horizon Bank	Memphis, TN	No
Frost Bank	San Antonio, TX	No
Jefferies Financial Group Inc. DBA Jefferies LLC	New York, NY	No
J.P. Morgan Broker-Dealer Holding, Inc. DBA J.P. Morgan Securities LLC	Brooklyn, NY	Yes
Loop Capital LLC DBA Loop Capital Markets LLC	Chicago, IL	No

**NOTE: The information contained in this RFP tabulation is for information only and does not constitute actual award/execution of contract.**

Approved:       /s/      

Date: 4/25/2022

2022-0472R Professional Underwriter Services



**CITY OF EL PASO**  
**REQUEST FOR PROPOSALS TABULATION FORM**



**Bid Opening Date: March 23, 2022**

**Solicitation #: 2022-0472R**

**Project Name: Professional Underwriter Services**

**Department: City Manager's Office**

<b>BIDDER'S NAME:</b>	<b>LOCATION:</b>	<b>AMENDMENT(S) ACKNOWLEDGED:</b>
<b>Morgan Stanley Domestic Holdings, Inc. DBA Morgan Stanley &amp; Co. LLC</b>	<b>New York, NY</b>	<b>No</b>
<b>Oppenheimer &amp; Co., Inc</b>	<b>New York, NY</b>	<b>No</b>
<b>Piper Sandler &amp; Co</b>	<b>Minneapolis, MN</b>	<b>No</b>
<b>Raymond James &amp; Associates, Inc.</b>	<b>St. Petersburg, FL</b>	<b>No</b>
<b>RBC Capital Markets, LLC</b>	<b>Jersey City, NJ</b>	<b>No</b>
<b>Rice Securities, LLC DBA Rice Financial Products Company</b>	<b>Houston, TX</b>	<b>No</b>
<b>Samuel A. Ramirez &amp; Co., Inc.</b>	<b>New York, NY</b>	<b>No</b>
<b>Siebert Williams Shank &amp; Co., LLC</b>	<b>New York, NY</b>	<b>Yes</b>

**NOTE: The information contained in this RFP tabulation is for information only and does not constitute actual award/execution of contract.**

Approved:       /s/      

Date:   4/25/2022  

2022-0472R Professional Underwriter Services



**CITY OF EL PASO**  
**REQUEST FOR PROPOSALS TABULATION FORM**



**Bid Opening Date: March 23, 2022**

**Solicitation #: 2022-0472R**

**Project Name: Professional Underwriter Services**

**Department: City Manager's Office**

<b>BIDDER'S NAME:</b>	<b>LOCATION:</b>	<b>AMENDMENT(S) ACKNOWLEDGED:</b>
Stephens Inc.	Little Rock, AR	Yes
Stifel, Nicolaus & Company, Inc.	Saint Louis, MO	No
UBS Financial Services Inc.	Weehawken, NJ	No
UMB Bank, n.a.	San Antonio, TX	No
<b>RFPs SOLICITED: 63    LOCAL RFPs SOLICITED: 2    RFPs RECEIVED: 20    LOCAL RFPs RECEIVED: 0    NO RFPs: 0</b>		

**NOTE: The information contained in this RFP tabulation is for information only and does not constitute actual award/execution of contract.**

Approved:       /s/      

Date: 4/25/2022

2022-0472R Professional Underwriters Services  
Bidder's List

BANK OF AMERICA MERRILL LYNCH  
ATTN: KRISTIN BUTTON  
600 NORTH PEARL ST – SUITE 2165  
DALLAS, TX 75201

BANK OF AMERICA MERRILL LYNCH  
ATTN: BRANDON WALKER  
901 MAIN STREET, 11<sup>TH</sup> FLOOR  
DALLAS, TX 75202

BARCLAYS CAPITAL INC.  
ATTN: JOHN DANIEL  
745 7<sup>TH</sup> AVENUE, 19<sup>TH</sup> FLOOR  
NEW YORK, NY 10019

BARCLAYS CAPITAL INC.  
ATTN: PARTICK SCOTT  
1301 MCKINNEY SUITE 400  
HOUSTON, TX 77010

BB&T CAPITAL MARKETS  
ATTN: MARTHA MARTINEZ-  
KARASCH  
333 CLAY ST – SUITE 3800  
HOUSTON, TX 77002

BLAYLOCK BEAL VAN LLC  
ATTN: GAIL SCHAEFFER  
600 LEXINGTON AVE 3<sup>RD</sup> FLOOR  
NEW YORK, TX 10022

BOK FINANCIAL SECURITIES  
ATTN: WILLIAM GUMBERT  
333 WEST CAMPBELL SUITE 350  
RICHARDSON, TX 75080

BOK FINANCIAL SECURITIES  
ATTN: ALISON LONG  
333 W. CAMPBELL SUITE 350  
RICHARDSON, TX 75080

CABERA CAPITAL MARKETS, LLC  
ATTN: MARTIN CABRERA  
10 S. LASALLE ST, SUITE 1050  
CHICAGO, IL

CITIGROUP CLOBAL MARKETS, INC.  
ATTN: MARIO CARRASCO  
100 CITIBANK DR, BLDG 2  
SAN ANTONIO, TX 78245

CITIGROUP CLOBAL MARKETS, INC.  
ATTN: HECTOR MATOS  
100 CITIBANK DR, BLDG 2  
SAN ANTONIO, TX 78245

CITIGROUP CLOBAL MARKETS, INC.  
ATTN: DEVIN PHILLIPS  
300 CRESCENT SUITE 940  
DALLAS, TX 75201

COASTAL SECURITIES, INC  
ATTN: JORGE RODRIGUEZ  
14421 ROGERS RANCH PARKWAY,  
SUITE 145  
SAN ANTONIO, TX

COASTAL SECURITIES, INC  
ATTN: DANIEL RODRIGUEZ  
14421 ROGERS RANCH PARKWAY,  
SUITE 145  
SAN ANTONIO, TX

CREWS & ASSOCIATES, INC  
ATTN: RICK CALHOUN  
521 PRESIDENT CLINTON AVE  
SUITE 800  
LITTLE ROCK, AR 72201

CREWS & ASSOCIATES, INC. -  
CAPITAL MARKETS  
ATTN: SHERALD WOOD  
120 N. MAIN ST. BRYAN, TX 77803

ESTRADA HINOJOSA & CO., INC.  
ATTN: RUDY MEJIA  
823 CONGRESS AVENUE, SUITE  
1550  
AUSTIN, TX 78701

FROST BANK CAPITAL MARKETS  
ATTN: DON FOSTER  
100 W. HOUSTON STREET - SUITE 110  
SAN ANTONIO, TX 78205

FTN CAPITAL MARKETS  
ATTN: ROGELIO RODRIGUEZ  
9901 IH-10 WEST, SUITE 800  
SAN ANTONIO, TX 78230

GEORGE K. BAUM & COMPANY  
ATTN: BRAD ANGST  
100 CONGRSS AVE SUITE 2100  
AUSTIN, TX 78701

GEORGE K. BAUM & COMPANY  
ATTN: MARK VALENZUELA  
6501 A,EROCAS PARKWAY, N.E ONE  
PARK SQUAE, SUITE 510  
ALBUQUERQUE, NM 87110

GOLDMAN, SACHS & CO.  
ATTN: COLLIN TEAGUE  
200 WEST STREET 32<sup>ND</sup> FLOOR  
NEW YORK, NY 10282

GOLDMAN, SACHS & CO.  
ATTN: TERRY THORTON  
1000 LOUISIANA 11<sup>TH</sup> FLOOR  
HOUSTON, TX 77002

HUTCHISON, SHOCKEY, ERLEY & CO  
PATRICIA RODRIGUEZ  
4545 POAST OAK PLACE – SUITE 215  
HOUSTON, TX 77027

HUTCHISON, SHOCKEY, ERLEY & CO  
ATTN: MARK NITCHOLAS  
4545 POAST OAK PLACE – SUITE 215  
HOUSTON, TX 77027

JEFFERIES LLC  
ATTN: LISA PEPI  
1777 NE LOOP 410, SUITE 600  
SAN ANTONIO, TX 78217

JEFFERIES LLC  
ATTN: MARK ELLIS  
333 CLAY ST 9<sup>TH</sup> FLOOR  
HOUSTON, TX 77002

2022-0472R Professional Underwriters Services  
Bidder's List

LOOP CAPITAL MARKETS LLC  
ATTN: CURTIS FLOWERS  
440 LOUISIANA SUITE 900  
HOUSTON, TX 77002

MORGAN STANLEY  
ATTN: KIT CALDWELL  
755 E. MULBERRY AVE SUITE 300  
SAN ANTONIO, TX 78212

MUFG BANK OF TOKYO-MISUBISHI  
UFJ, LTD.  
ATTN: NICK BOYLE  
500 N AKARD, SUITE 4200  
DALLAS, TX 75201

OPPENHEIMER & CO. INC.  
ATTN: CARLOS SHARPLESS  
711 LOUISIAN, SUITE 1500  
HOUSTON, TX 77002

PIPER JAFFRAY & CO.  
ATTN: KIT CALDWELL  
1177 WEST LOOP SOUTH SUITE  
1500  
HOUSTON, TX 77027

PIPER JAFFRAY & CO.  
ATTN: KIM EDWARDS  
7000 N. MOPAC EXPRESSWAY – SUITE  
2102  
AUSTIN, TX 78731

RAMIREZ & CO. INC  
ATTN: LORRAINE PALACIOS  
100 CONGRESS AVE SUITE 2000  
AUSTIN, TX 78701

RAMIREZ & CO. INC  
ATTN: KAREN PRICE  
2068 IMPERIAL LANE  
SUPERIOR, CO 80027

RAMIREZ & CO. INC  
ATTN: ROBIN REDFORD  
100 CONGRESS AVE SUITE 2000  
AUSTIN, TX 78701

RAYMOND JAMES.  
ATTN: BUDDY KEMPF  
5956 SHERRY LANE SUITE 1900  
DALLAS, TX 75225

RAYMOND JAMES.  
ATTN: TOM OPPENHEIM  
5956 SHERRY LANE SUITE 1900  
DALLAS, TX 75225

RBC CAPITAL MARKETS  
ATTN: RICHARD ACOSTA  
303 PEARL PARKWAY SUITE 220  
SAN ANTONIO, TX 78215

RBC CAPITAL MARKETS  
ATTN: MATT BOLES  
210 CRESCENT COURT SUITE 1500  
DALLAS, TX 75201

RBC CAPITAL MARKETS  
ATTN: MARK TARPLEY  
200 CRESCENT COURT SUITE 600  
DALLAS, TX 75201

ROBERT W. BAIRD & CO. INC.  
ATTN: MORGAN CHAMPAGNE  
1331 LAMAR SUITE 1360  
HOUSTON, TX 77010

ROBERT W. BAIRD & CO. INC.  
ATTN: BRIAN COLON  
1331 LAMAR SUITE 1360  
DENVER, CO 80206

ROBERT W. BAIRD & CO. INC.  
ATTN: DICK DAVIS  
5950 BERKSHIRE SUITE 1300  
DALLAS, TX 75225

SAMCO CAPITAL MARKETS, INC  
ATTN: STEVE SLEDGE  
1700 PACIFIC SUITE 2000  
DALLAS, TX 75201

SIEBERT CISNEROS SHANK & CO.  
LLC  
ATTN: JUSTIN RODRIGUEZ  
454 SOLEDAD, SUITE 201  
SAN ANTONIO, TX 78205

STEPHENS, INC  
ATTN: ROBERT RIVERA  
200 CRESCENT COURT SUITE 600  
DALLAS, TX 75201

STEPHENS, INC  
ATTN: ROBERT RIVERA  
200 CRESCENT COURT SUITE 600  
DALLAS, TX 75201

STEPHENS, INC  
ATTN: ROBERT RIVERA  
200 CRESCENT COURT SUITE 600  
DALLAS, TX 75218

STIFEL NICOLAUS & COMPANY, INC  
ATTN: MARISOL WARNKE  
70 NE LOOP 410 – SUITE 295  
SAN ANTONIO, TX 78216

STIFEL NICOLAUS & COMPANY, INC  
ATTN: NORA CHAVEZ  
RENAISSANCE PLAZA 70 NORTHEAST  
LOOP 410, SUITE 295  
SAN ANTONIO, TX 78216

STIFEL NICOLAUS & COMPANY, INC  
ATTN: LIZZETH GAMBOA  
RENAISSANCE PLAZA 70 NORTHEAST  
LOOP 410, SUITE 295  
SAN ANTONIO, TX 78216

THE GMS GROUP, LLC  
ATTN: RHONDA DUPREE  
5075 WESTHEIMER SUITE 1175  
HOUSTON, TX 77056

UMB BANK  
ATTN: TODD HOLDER  
5910 N. CENTRAL EXPRESSWAY,  
SUITE 1900  
DALLAS, TX 75206

2022-0472R Professional Underwriters Services  
Bidder's List

WELLS FARGO PUBLIC FINANCE  
ATTN: GEORGE PEDRAZA  
40 N.E. LOOP 410 SUITE 335  
SAN ANTONIO, TX 78216

WELLS FARGO PUBLIC FINANCE  
ATTN: JOHN YOUNG  
1000 LOUSIANA SUITE 600  
HOUSTON, TX 77002

WELLS FARGO SECURITIES  
ATTN: LAURA POWELL  
6100 BANDERA RD, SUITE 200  
SAN ANTONIO, TX 78238

WILLIAM BLAIR & COMPANY  
ATTN: AJAY THOMAS  
6500 RIVER PLACE BUILDING 7  
SUITE 250  
AUSTIN, TX 78730

WILLIAM BLAIR & COMPANY  
ATTN: JOHN HALL  
9901 IH-10, WEST SUITE 800/OFFICE 8056  
SAN ANTONIO, TX 78230

WILLIAM BLAIR & COMPANY  
ATTN: DAVID TIFFIN  
6500 RIVER PLACE BUILDING 7  
SUITE 250  
AUSTIN, TX 78730

JEFFERIES, LLC  
ATTN: TILGHMAN NAYLOR  
300 CRESENT COURT SUITE 500  
DALLAS, TX 75201

JPMORGAN CHASE BANK, N.A  
ATTN: RHETT BREDY  
2200 ROSS AVE 3<sup>RD</sup> FLOOR  
DALLAS, TX 75201

JPMORGAN CHASE BANK, N.A  
ATTN: NANCY DE ANDA  
500 E. BORDER ST – 3<sup>RD</sup> FLOOR  
ARLINGTON, TX 76010



## **RESOLUTION**

**WHEREAS**, the El Paso, Texas City Council affirmed and updated its Debt Management Policy on July 26, 2016, setting forth the parameters for issuing new debt as well as managing the outstanding debt portfolio, identifying the types and amounts of permissible debt, and maintaining the current bond rating in order to minimize borrowing costs and preserving access to credit;

**WHEREAS**, in accordance with the Debt Management Policy, on February 1, 2022 the City of El Paso, Texas (the “City”) issued a request for qualifications as Solicitation 2022-0472R (Professional Underwriter Services) for the purpose of establishing a pool of credentialed and qualified professional underwriters for potential use by the City; and

**WHEREAS**, twenty-four (20) underwriters responded to the solicitation and a committee of professionals diligently evaluated the submissions received and compiled therefrom a list of seventeen (17) credentialed and qualified professional underwriters recommended by the Department of Purchasing and Strategic Sourcing for the City’s use;

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

That in accordance with the City’s Debt Management Policy, the List of Qualified Professional Underwriters compiled from Solicitation 2022-0472R (attached as “Exhibit A”) is hereby approved and the City Manager or his designee is authorized to select the appropriate underwriting firms to provide underwriting services for future City debt issuances or other financings from the List in rotating order. The selection and rotation of the underwriting firm will depend on the number of firms necessary for a particular issuance, which will vary based on the size and complexity of the issuance. All associated fees will be negotiated at the time of issuance. Said List shall remain in effect from August 30, 2022 through August 29, 2027, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee. Although the City anticipates using this list as the basis for selecting underwriters for future use, the City reserves the right to solicit underwriters for certain future debt instruments that, in the sole opinion of the City, require additional consideration or specialty.

**(Signatures on the Following Page)**

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2022.


**THE CITY OF EL PASO:**

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

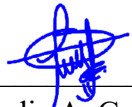
**ATTEST:**

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Russell T. Abeln  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Claudia A. Garcia, Interim Director  
Purchasing and Strategic Sourcing Dept.

**“EXHIBIT A”**  
**LIST OF QUALIFIED PROFESSIONAL UNDERWRITERS**

Barclays Capital Inc.
Cabrera Capital Markets, Inc.
Estrada Hinojosa & Company, Inc.
Frost Bank
Jefferies Financial Group Inc. DBA Jefferies LLC
J.P. Morgan Broker-Dealer Holding, Inc. DBA J.P. Morgan Securities LLC
Loop Capital LLC DBA Loop Capital Markets LLC
Morgan Stanley Domestic Holdings, Inc. DBA Morgan Stanley & Co. LLC
Oppenheimer & Co., Inc
Piper Sandler & Co
Raymond James & Associates, Inc.
RBC Capital Markets, LLC
Samuel A. Ramirez & Co., Inc.
Siebert Williams Shank & Co., LLC
Stephens Inc.
Stifel, Nicolaus & Company, Inc.
UMB Bank, n.a.



Legislation Text

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File #: 22-1087, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**District 7**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218  
Capital Improvement Department, Yvette Hernandez, (915) 212-1845

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to the Strategic Plan is subsection 4.2 - Create innovative recreational, educational and cultural programs

**Award Summary:**

The award of Solicitation 2022-0826 JP Shawver Park Improvements to BLACK STALLION CONTRACTORS, INC. for a total estimated award of \$175,271.71. The project consists of new 3-wall handball court, installation of solar light fixtures, concrete sidewalks and modifications to the existing irrigation system.

Department:	Capital Improvement
Award to:	BLACK STALLION CONTRACTORS, INC. El Paso, TX
Item(s):	Base Bid I
Initial Term:	180 Consecutive Calendar Days
Base Bid I:	\$175,271.71
Total Estimated Award:	\$175,271.71
Funding Source:	Community Development Block Grant
Accounts:	471-2400-71240-580270-G7146CD68
District(s):	7

This is a Low Bid procurement, unit price contract.

The Purchasing & Strategic Sourcing and Capital Improvement Departments recommend award as indicated to BLACK STALLION CONTRACTORS, INC., the lowest responsive and responsible bidder.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and

paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Yvette Hernandez, City Engineer, (915) 212-1845

Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing,  
(915) 212-1218

**DISTRICT(S) AFFECTED:** 7

**STRATEGIC GOAL:** No. 4 Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

**SUBGOAL:** 4.2 - Create innovative recreational, educational and cultural programs

**SUBJECT:**

The award of Solicitation 2022-0826 JP Shawver Park Improvements to BLACK STALLION CONTRACTORS, INC. for an estimated total award of \$175,271.71.

**BACKGROUND / DISCUSSION:**

The project consists of the construction of a new 3-wall handball court to be located on the west side of the JP Shawver Park located at 8100 Independence. The scope of work includes but not limited to the removal of existing grass area and soil in preparation for the construction of the handball court. The work also involves the installation of solar light fixtures, concrete sidewalks and modifications to the existing irrigation system.

**SELECTION SUMMARY:**

Solicitation was advertised on July 5, 2022, July 12, 2022. The solicitation was posted on City website on July 5, 2021. The email (Purmail) notification was sent out on July 7, 2021. There was a total of fifty six (56) viewers online; five (5) bids were received; four from local suppliers.

**CONTRACT VARIANCE:**

N/A

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$175,271.71

Funding Source: Community Development Block Grant

Account: 471-2400-71240-580270-G7146CD68


HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

PRIMARY DEPARTMENT: Capital Improvement  
SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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

**DEPARTMENT HEAD:**

  
\_\_\_\_\_  
Yvette Hernandez, City Engineer

**COUNCIL PROJECT FORM  
(Low Bid)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **CONSENT AGENDA** for the Council Meeting of **August 30, 2022**

**STRATEGIC GOAL 4 – Enhance El Paso’s Quality of Life through Recreational, Cultural and Educational Environments**

The linkage to the Strategic Plan is subsection 4.2 - Create innovative recreational, educational and cultural programs

**Award Summary:**

The award of solicitation 2022-0826 JP Shawver Park Improvements to BLACK STALLION CONTRACTORS, INC. for a total estimated award of \$175,271.71. The project consists of new 3-wall handball court, installation of solar light fixtures, concrete sidewalks and modifications to the existing irrigation system.

Department:	Capital Improvement
Award to:	BLACK STALLION CONTRACTORS, INC. El Paso, TX
Item(s):	Base Bid I
Initial Term:	180 Consecutive Calendar Days
Base Bid I:	\$175,271.71
Total Estimated Award:	\$175,271.71
Funding Source:	Community Development Block Grant
Accounts:	471-2400-71240-580270-G7146CD68
District(s):	7

This is a Low Bid procurement, unit price contract.

The Purchasing & Strategic Sourcing and Capital Improvement Departments recommend award as indicated to BLACK STALLION CONTRACTORS, INC., the lowest responsive and responsible bidder.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.



## Bid Tab Summary

### 2022-0826 JP Shawver Park Improvements

	Contractor	Base Bid I	Total Amount
1	Black Stallion Contractors, Inc.	\$175,271.71	\$175,271.71
2	Allen Concrete, LLC	\$178,584.90	\$178,584.90
3	RDZ Build	\$214,483.45	\$214,483.45
4	Keystone GC, LLC	\$241,478.00	\$241,478.00
5	Horizone 1 Construction 1, LTD	\$25,897,604.00	\$25,897,604.00



# City of El Paso Bid Tabulation



BID TITLE: JP Shawver Park Improvements							BID NO: 2022--0826		
BID DATE: August 03, 2022							DEPARTMENT: Capital Improvement		
				Allen Concrete, LLC El Paso, TX Bidder 1 of 5		Black Stallion Contractors, Inc. El Paso, TX Bidder 2 of 5		Horizon Construction 1, Ltd. El Paso, TX Bidder 3 of 5	
Item No.	Approx. Qty.	Unit	Brief Description of Item	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round
BASE BID I – UNIT PRICE SCHEDULE									
1.	1	LS	BEFORE AND AFTER CONSTRUCTION VIDEO TAPING OF SITE	\$2,500.00	\$2,500.00	\$1,320.00	\$1,320.00	\$2,326.46	\$2,326.46
2.	1	LS	CONSTRUCTION STAKING BY RPLS	\$6,800.00	\$6,800.00	\$3,080.00	\$3,080.00	\$8,824.51	\$8,824.51
3.	865	LF	TEMPORARY CHAINLINK FENC TO INCLUDE STAGING AREA AND DOUBLE GATE DOORS	\$14.50	\$12,542.50	\$8.80	\$7,612.00	\$11.25	\$9,731.25
4.	600	LF	INSTALL TEMPORARY SILT FENCE AS REQUIRED BY SWPPP	\$11.00	\$6,600.00	\$6.05	\$3,630.00	\$9.45	\$5,670.00
5.	420	SY	PERFORM CLEARING AND GRUBBING AS REQUIRED	\$6.00	\$2,520.00	\$11.00	\$4,620.00	\$5.75	\$2,415.00
6.	7	EA	FURNISH AND INSTALL TEMPORARY 4'X8' STEEL PLATES FOR PROTECTION OF IRRIGATION LINES	\$930.00	\$6,510.00	\$1,122.00	\$7,854.00	\$2,890.40	\$20,232.80
7.	20	LF	FURNISH AND INSTALL SLEEVING FOR IRRIGATION LINES	\$72.00	\$1,440.00	\$44.00	\$880.00	\$385.07	\$7,701.40
8.	1,420	SF	FURNISH AND INSTALL 3" ROCK SCREENING AND WEED BARRIER COMPLETE IN-PLACE	\$3.52	\$4,998.40	\$2.75	\$3,905.00	\$10.30	\$14,626.00
9.	80	LF	FURNISH AND INSTALL 6" STEEL EDGING COMPLETE IN-PLACE	\$28.47	\$2,277.60	\$9.90	\$792.00	\$20.47	\$1,637.60
10.	1	LS	MODIFICATIONS TO EXISTING IRRIGATION SYSTEM	\$7,150.00	\$7,150.00	\$2,750.00	\$2,750.00	\$7,220.06	\$7,220.06



## City of El Paso Bid Tabulation



<b>BID TITLE: JP Shawver Park Improvements</b>								<b>BID NO: 2022--0826</b>	
<b>BID DATE: August 03, 2022</b>								<b>DEPARTMENT: Capital Improvement</b>	
				<b>Allen Concrete, LLC</b>		<b>Black Stallion Contractors, Inc.</b>		<b>Horizone Construction 1, Ltd.</b>	
				<b>El Paso, TX</b>		<b>El Paso, TX</b>		<b>El Paso, TX</b>	
				<b>Bidder 1 of 5</b>		<b>Bidder 2 of 5</b>		<b>Bidder 3 of 5</b>	
Item No.	Approx. Qty.	Unit	Brief Description of Item	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round
<b>BASE BID I – UNIT PRICE SCHEDULE</b>									
11.	40	CY	FURNISH AND INSTALL NEW HANDBALL COURT REINFORCED CONCRETE FOOTINGS AND FOUNDATION (COMPLETE IN PLACE)	\$625.00	\$25,000.00	\$990.00	\$39,600.00	\$760.95	\$30,438.00
12.	45	CY	FURNISH AND INSTALL NEW HANDBALL COURT REINFORCED CONCRETE WALLS (COMPLETE IN PLACE)	\$620.00	\$27,900.00	\$1,210.00	\$54,450.00	\$2,461.10	\$110,749.50
13.	2	EA	FURNISH AND INSTALL NEW SOLAR PANEL LIGHT FIXTURES TO INCLUDE LIGHTING TIMING CONTROLLER (COMPLETE IN PLACE)	\$20,900.00	\$41,800.00	\$11,000.00	\$22,000.00	\$9,723.08	\$19,446.16
14.	135	LF	FURNISH AND INSTALL 2" WIDE WHITE PAINT STRIPING (COMPLETE IN PLACE)	\$7.70	\$1,039.50	\$6.60	\$891.00	\$14.86	\$2,006.10
15.	100	SY	FURNISH AND INSTALL 5' WIDE X 4" THICK REINFORCED CONCRETE SIDEWALK (COMPLETE IN PLACE)	\$53.00	\$5,300.00	\$69.30	\$6,930.00	\$69.65	\$6,965.00
16.	420	SY	PERFORM SUBGRADE PREPARATION FOR HANDBALL COURT AND SIDEWALK PLACEMENT INCLUDING COMPACTION OF SUBGRADE AS REQUIRED	\$38.00	\$15,960.00	\$16.50	\$6,930.00	\$7.11	\$2,986.20
<b>SUM TOTAL BASE BID I (ITEM 1 – 16)</b>				<b>\$170,338.00</b>		<b>\$167,244.00</b>		<b>\$252,976.04</b>	
<b>CONSTRUCTION MOBILIZATION/DEMOBILIZATION (CANNOT EXCEED 5% OF BASE BID)</b>				<b>\$8,516.90</b>		<b>\$8,027.71</b>		<b>\$6,000.00</b>	
<b>SUM TOTAL BASE BID I + MOBILIZATION/DEMOBILIZATION</b>				<b>\$178,854.90</b>		<b>\$175,271.71</b>		<b>\$258,976.04</b>	
<b>AMENDMENT ACKNOWLEDGED</b>				<b>Yes</b>		<b>Yes</b>		<b>Yes</b>	
<b>BID BOND SUBMITTED</b>				<b>Yes</b>		<b>Yes</b>		<b>Yes</b>	



# City of El Paso Bid Tabulation



**BID TITLE:** JP Shawver Park Improvements **BID NO:** 2022--0826  
**BID DATE:** August 03, 2022 **DEPARTMENT:** Capital Improvement

				Keystone GC, LLC El Paso, TX Bidder 4 of 5		RDZ BUILD Denver, CO Bidder 5 of 5			
Item No.	Approx. Qty.	Unit	Brief Description of Item	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round		
<b>BASE BID I – UNIT PRICE SCHEDULE</b>									
1.	1	LS	BEFORE AND AFTER CONSTRUCTION VIDEO TAPING OF SITE	\$3,457.00	\$3,457.00	\$1,800.00	\$1,800.00		
2.	1	LS	CONSTRUCTION STAKING BY RPLS	\$2,074.00	\$2,074.00	\$9,000.00	\$9,000.00		
3.	865	LF	TEMPORARY CHAINLINK FENCE TO INCLUDE STAGING AREA AND DOUBLE GATE DOORS	\$4.00	\$3,460.00	\$19.25	\$16,651.25		
4.	600	LF	INSTALL TEMPORARY SILT FENCE AS REQUIRED BY SWPPP	\$12.00	\$7,200.00	\$29.60	\$17,760.00		
5.	420	SY	PERFORM CLEARING AND GRUBBING AS REQUIRED	\$8.00	\$3,360.00	\$56.85	\$23,877.00		
6.	7	EA	FURNISH AND INSTALL TEMPORARY 4'X8' STEEL PLATES FOR PROTECTION OF IRRIGATION LINES	\$752.00	\$5,264.00	\$1,850.00	\$12,950.00		
7.	20	LF	FURNISH AND INSTALL SLEEVING FOR IRRIGATION LINES	\$24.00	\$480.00	\$45.00	\$900.00		
8.	1,420	SF	FURNISH AND INSTALL 3" ROCK SCREENING AND WEED BARRIER COMPLETE IN-PLACE	\$2.00	\$2,840.00	\$5.70	\$8,094.00		
9.	80	LF	FURNISH AND INSTALL 6" STEEL EDGING COMPLETE IN-PLACE	\$21.00	\$1,680.00	\$4.12	\$329.60		
10.	1	LS	MODIFICATIONS TO EXISTING IRRIGATION SYSTEM	\$7,328.00	\$7,328.00	\$4,445.00	\$4,445.00		
11.	40	CY	FURNISH AND INSTALL NEW HANDBALL COURT REINFORCED CONCRETE FOOTINGS AND FOUNDATION (COMPLETE IN PLACE)	\$2,306.00	\$92,240.00 Contractor's price: \$25,366.00	\$785.00	\$31,400.00		



# City of El Paso Bid Tabulation



**BID TITLE:** JP Shawver Park Improvements **BID NO:** 2022--0826  
**BID DATE:** August 03, 2022 **DEPARTMENT:** Capital Improvement

				Keystone GC, LLC El Paso, TX Bidder 4 of 5		RDZ BUILD Denver, CO Bidder 2 of 5			
Item No.	Approx. Qty.	Unit	Brief Description of Item	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round	Unit Bid Price (In Figures) Use 2 decimals Do Not Round	Total Amount (Quantity x Unit Price) (In Figures) Use 2 decimals Do Not Round
<b>BASE BID I – UNIT PRICE SCHEDULE</b>									
12.	45	CY	FURNISH AND INSTALL NEW HANDBALL COURT REINFORCED CONCRETE WALLS (COMPLETE IN PLACE)	\$1,515.00	\$68,175.00	\$968.45	\$43,580.25		
13.	2	EA	FURNISH AND INSTALL NEW SOLAR PANEL LIGHT FIXTURES TO INCLUDE LIGHTING TIMING CONTROLLER (COMPLETE IN PLACE)	\$14,009.00	\$28,018.00	\$6,940.80	\$13,881.60		
14.	135	LF	FURNISH AND INSTALL 2" WIDE WHITE PAINT STRIPING (COMPLETE IN PLACE)	\$4.00	\$540.00	\$3.15	\$425.25		
15.	100	SY	FURNISH AND INSTALL 5' WIDE X 4" THICK REINFORCED CONCRETE SIDEWALK (COMPLETE IN PLACE)	\$62.00	\$6,200.00	\$96.00	\$9,600.00		
16.	420	SY	PERFORM SUBGRADE PREPARATION FOR HANDBALL COURT AND SIDEWALK PLACEMENT INCLUDING COMPACTION OF SUBGRADE AS REQUIRED	\$7.00	\$2,940.00	\$22.80	\$9,576.00		
<b>SUM TOTAL BASE BID I (ITEM 1 – 16)</b>				<b>\$235,256.00</b>		<b>\$204,269.95</b>			
				Contractor's price: \$168,382.00					
<b>CONSTRUCTION MOBILIZATION/DEMObILIZATION (CANNOT EXCEED 5% OF BASE BID)</b>				<b>\$6,222.00</b>		<b>\$10,213.50</b>			
<b>SUM TOTAL BASE BID I + MOBILIZATION/DEMObILIZATION</b>				<b>\$241,478.00</b>		<b>\$214,483.45</b>			
				Contractor's price: \$174,604.00					
<b>AMENDMENT ACKNOWLEDGED</b>				<b>Yes</b>		<b>Yes</b>			
<b>BID BOND SUBMITTED</b>				<b>Yes</b>		<b>Yes</b>			

## 2022-0829 JP Shawver Park Improvements

## Views List

No.	COMPANY	NAME
1	Alamo Sprinklet	Valenzuela, Mark
2	Allen Concrete Inc.	Magdaleno, Jesus
3	AMTEK	Rugh, John
4	Aztec Contractors, I	Lopez, Ricardo
5	Bella Luna Engineeri	Luna, Larry
6	Black stallion Contr	Reyes, Carlos
7	Border Demolition An	Acosta, David
8	CEA Group	Concha, David
9	CMD Endeavors	Brayan, Chavarria
10	ConstructConnect	STINSON, MORGAN
11	Construction Reporte	Wood, Jane
12	Deltek	Management, Source
13	Direx Construction,	Hudson, Brad
14	Dodge Data	Peggy, Koehn
15	DRS Rock Materials,	Soto, Daniel
16	El Roi Construction	Molina, Ytzel
17	EMJ Construction	Blackwell, Corbin
18	EPHCC	Tinoco, Fernando
19	Ferguson Waterworks	Valenzuela, Zandra
20	Fulcrum Contracting	Jaramillo, Jorge
21	GCC Sun City Materia	Butterworth, Grace
22	Globe Builders	Castillo, Marcos
23	GRV IES	Medina, Steve
24	HAWK	Jorge, Ojeda
25	HB Construction	Mulligan, Matthew
26	Hernandez Consulting	Tan, Albert
27	Horizone Const. 1 LT	De Stefano, Luis Rene
28	i- Sourcing Technolo	Balai, Rakesh
29	IMS	Gaynor, Shabron
30	Jobe Materials	Paredes, Raul
31	Jordan Foster Constr	Lopez, Rafael
32	Keystone GC, LLC.	Guillen, Francisco
33	Lara Construction	Mario, Lara
34	Lizandro Naranjo	Naranjo, Lizandro
35	Lomeli and sons Land	Gonzalez, Ruben
36	Martinez Bros. Contr	Martinez, Heriberto
37	Mean Clean Ilc	Salazar, Carlos
38	MERCER TECHNOLOGIES	Mercer, Garrett
39	Pacific Inc	Doe, John
40	Perikin Enterprises,	Lopez, Rafael
41	Prime Vendor Inc.	Jones, Kim
42	QTO Solutions	Uddin, Nisar
43	Quantum Engineering	Fraga, Miguel
44	Rangeline Tapping Se	Rodriguez, Timothy
45	RDZ BUILD	Rodriguez, Manny
46	SigmCon	Torres, Elizabeth

## 2022-0829 JP Shawver Park Improvements

## Views List

	COMPANY	NAME
47	Smartprocure	Bjornsson, Ron
48	SPARTAN CONSTRUCTION	ALLEN, STEVE
49	Surescape Insurance	Burnett, Cindy
49	The PlanIt Room	Hernandez, Cecilia
50	VEMAC	Maynez, Alejandra
51	Vertex Contractors,	Ruiz, Erika
52	Vitual Builders Exch	Olguin, Jeannette
53	Wayne Enterprises	Austin, Fork
54	West Texas General C	Valdez, Angel
55	Win Supply	Garcia, Mark
56	Ztex Construction	Construction, Ztex



El Paso, TX

300 N. Campbell  
El Paso, TX

## Legislation Text

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**File #:** 22-1089, **Version:** 1

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### **CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM**

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

##### **All Districts**

Members of the City Council, Representative Henry Rivera, (915) 212-0007

#### **AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action on a Resolution that the City of El Paso proudly honors and recognizes District 1 City Representative and Mayor Pro Tempore Peter Svarzbein for being elected the first Latino Chairman of Sister Cities International.



**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
AGENDA SUMMARY FORM**

**DEPARTMENT:** Mayor and Council

**AGENDA DATE:** Tuesday, August 30, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:**

City Representative Henry Rivera, District 7- 915.212.0007

**DISTRICT(S) AFFECTED:** All Districts

**STRATEGIC GOAL:**

Goal 1 - Cultivate an Environment Conducive to Strong, Economic Development

Goal 4 - Enhance El Paso's Quality of Life Through Recreational, Cultural & Educational Environments

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

Discussion and action on a resolution that the City of El Paso proudly honors and recognizes District 1 City Representative and Mayor Pro Tempore Peter Svarzbein for being elected the first Latino Chairman of Sister Cities International.

**BACKGROUND / DISCUSSION:**

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns? N/A

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one? N/A

**AMOUNT AND SOURCE OF FUNDING:**

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer? N/A

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

## **RESOLUTION**

**WHEREAS**, founded by President Dwight D. Eisenhower in 1956, Sister Cities International is a nonpartisan 501(c)(3) nonprofit which serves as the national membership organization for individual sister cities, counties, and states across the United States; and

**WHEREAS**, this network unites tens of thousands of citizen diplomats and volunteers in nearly 500 member communities with over 2,000 partnerships in more than 140 countries; and

**WHEREAS**, the mission of Sister Cities International is to promote peace through mutual respect, understanding, and cooperation—one individual, one community at a time; and

**WHEREAS**, the City of El Paso has active Sister City partnerships with Ciudad Juarez, Mexico; Chihuahua, Mexico; and Hadera, Israel; and

**WHEREAS**, in February 2020, Representative Svarzbein led the Mexico-U.S. Sister Cities Mayors' Summit, which was hosted by El Paso and Juarez and brought over 400 people to the region to learn about the relationship between the two nations; and

**WHEREAS**, on Thursday, July 16, 2020, Representative Svarzbein was elected Vice Chair of Sister Cities International; and

**WHEREAS**, on Friday, July 8, 2022, at the annual Summer Leadership Meeting in Santa Fe, New Mexico, El Paso District 1 City Representative and Mayor Pro Tempore Peter Svarzbein made history by being officially sworn in as the first Latino Chairman of Sister Cities International; and

**WHEREAS**, Representative Svarzbein's first major event as Chairman will be held this October at the U.S. Sister Cities Mayors' Community Summit in San Diego and Tijuana.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. That the City of El Paso proudly honors and recognizes District 1 City Representative and Mayor Pro Tempore Peter Svarzbein for being elected the first Latino Chairman of Sister Cities International and wishes him a successful two-year tenure as Chairman. Congratulations!

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

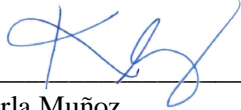
THE CITY OF EL PASO:

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

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Karla Muñoz  
Assistant City Attorney



Legislation Text

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File #: 22-1137, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**District 7**

Members of the City Council, Representative Henry Rivera, (915) 212-0007

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Presentation and update by the City Manager on the status of grants and/or loans provided to small businesses through the Small Business Emergency Relief Program managed by LiftFund, to include a list of any businesses attached to a lien.

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
AGENDA SUMMARY FORM**

**DEPARTMENT:** Mayor and Council

**AGENDA DATE:** Tuesday, August 30, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:**

City Representative Henry Rivera, District 7- 915.212.0007

**DISTRICT(S) AFFECTED:** All Districts

**STRATEGIC GOAL:**

Goal 1 - Cultivate an Environment Conducive to Strong, Economic Development

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

Presentation and update by the City Manager on the status of grants and/or loans provided to small businesses through the Small Business Emergency Relief Program managed by LiftFund, to include a list of any businesses attached to a lien.

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one? March 30, 2020 Council approved funding for the Small Business Emergency Relief Program, to be managed by LiftFund.**

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer? N/A**

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



Legislation Text

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File #: 22-1135, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 8**

Members of the City Council, Representative Cissy Lizarraga, (915) 212-0008

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action to approve a Resolution that the City Council declares that the expenditure of District 8 discretionary funds in an amount not to exceed \$5,846.70 for the use of El Paso Police Department patrol units and officers to support the Bowie 100th Anniversary Legacy Parade to be held on September 1, 2022, serves a municipal purpose of setting the standard for a safe and secure city; enhancing El Paso's quality of life; and fostering community pride; and that the City Manager be authorized to effectuate any budget transfer necessary to ensure that the funds are properly expended for such purpose and to execute any related agreements and amendments to such agreements.

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
AGENDA SUMMARY FORM**

**DEPARTMENT:** Mayor and Council

**AGENDA DATE:** 08/30/2022 (Regular Agenda)

**CONTACT PERSON NAME AND PHONE NUMBER:**

Rep. Cissy Lizarraga, 915-212-0008

**DISTRICT(S) AFFECTED:** District 8

**STRATEGIC GOAL:**

Goal 2 - Set the Standard for A Safe & Secure City

Goal 4 - Enhance El Paso's Quality of Life Through Recreational, Cultural & Educational Environments

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

Discussion and action to approve a resolution that the City Council declares that the expenditure of District 8 discretionary funds in an amount not to exceed \$5,846.70 for the use of El Paso Police Department patrol units and officers to support the Bowie 100th Anniversary Legacy Parade to be held on September 1, 2022, serves a municipal purpose of setting the standard for a safe and secure city; enhancing El Paso's quality of life, and fostering community pride; and that the City Manager be authorized to effectuate any budget transfer necessary to ensure that the funds are properly expended for such purpose and to execute any related agreements and amendments to such agreements.

**BACKGROUND / DISCUSSION:**

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

N/A

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one?

N/A

**AMOUNT AND SOURCE OF FUNDING:**

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

District 8 discretionary funds to be transferred to the El Paso Police Department.

\*\*\*\*\*

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

## RESOLUTION

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

That the City Council declares that the expenditure of District 8 discretionary funds in an amount not to exceed \$5,846.70 for the use of El Paso Police Department patrol units and officers to support the Bowie 100<sup>th</sup> Anniversary Legacy Parade to be held on September 1, 2022, serves a municipal purpose of setting the standard for a safe and secure city; enhancing El Paso's quality of life; and fostering community pride.

That the City Manager be authorized to effectuate any budget transfer necessary to ensure that the funds are properly expended for such purpose and to execute any related agreements and amendments to such agreements.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

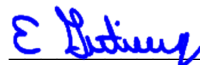
THE CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeson  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Eric Gutierrez  
Assistant City Attorney





Legislation Text

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File #: 22-1122, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Members of the City Council, Representative Peter Svarzbein, (915) 212-1002

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discuss the 2022 Sister Cities International U.S. - Mexico Mayor's Community Summit host in San Diego-Tijuana October 11-14. The City of El Paso will be able to promote its uniqueness and reinforce the existing relationships with other Mexican cities and the United States.

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
AGENDA SUMMARY FORM**

**DEPARTMENT:**

**AGENDA DATE:**

**CONTACT PERSON NAME AND PHONE NUMBER:**

**DISTRICT(S) AFFECTED:**

**STRATEGIC GOAL:**

**SUBJECT:**

**BACKGROUND/DISCUSSION:**

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one?

**AMOUNT AND SOURCE OF FUNDING:**

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

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



# **U.S. – MEXICO MAYORS’ COMMUNITY SUMMIT**

**SAN DIEGO, CA & TIJUANA, BC | OCTOBER 11–14, 2022**

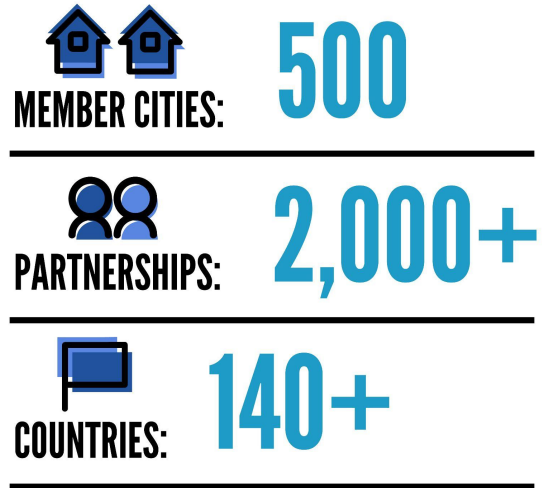
## What Is Sister Cities International?



Sister Cities International was created at President Eisenhower's 1956 White House conference on citizen diplomacy. Eisenhower envisioned an organization that could be the hub of peace and prosperity by creating bonds between people from different cities around the world.

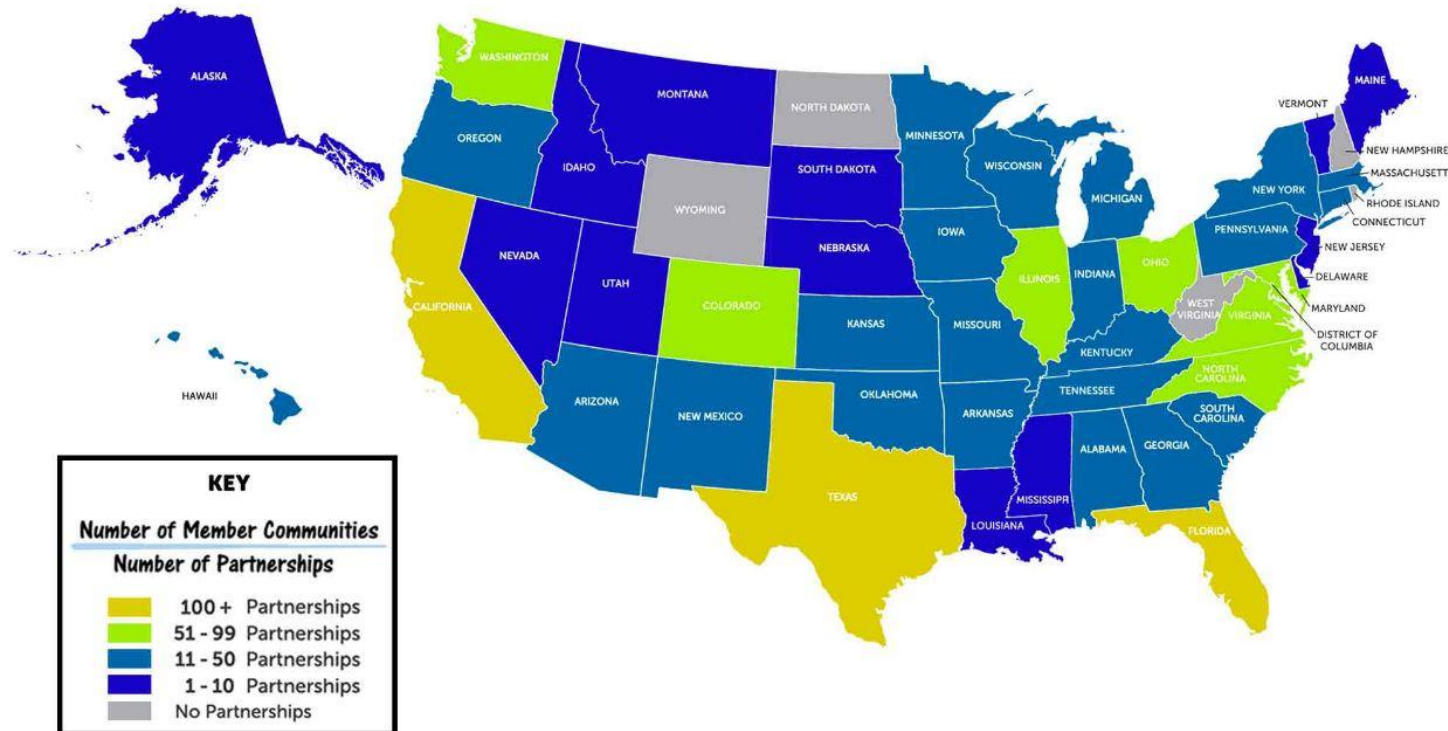
By forming these relationships, President Eisenhower reasoned that people of different cultures could celebrate and appreciate their differences and build partnerships that would lessen the chance of new conflicts.

## OUR REACH



Sister Cities International has worked to create and foster global relationships based on cultural, educational, and demographical interests and similarities. These shared interests have allowed us to develop into a global resource for communities seeking a diplomatic relationship (a Sister City) with another community thousands of miles away.

## WHERE WE ARE (U.S. COMMUNITIES & PARTNERSHIPS)



## WITH MORE THAN 168 PARTNERSHIPS IN MEXICO!



# **2022 U.S. – Mexico Mayors' Community Summit**

**San Diego, California | Tijuana, Baja California**

October 11-14, 2022

**<http://usmexicosummit.org/>**



# What Is The U.S. – Mexico Mayors' Community Summit?

The U.S. - Mexico Mayors' Summit is a three-day forum providing a platform for city officials, corporate leaders, academics, prominent global experts, and citizen diplomats to engage in worldly discussions — as a means of advancing global diplomacy and cultural understanding.

By expanding upon US-Mexico relationships, Sister Cities International celebrates global cooperation by giving a voice to communities worldwide.

The U.S. - Mexico Mayors' Community Summit in San Diego and Tijuana will be the 5<sup>th</sup> in a series of bi-national Summits to reaffirm and strengthen sister city relationships in key countries.



## 2018 Summit - Guadalajara, Jalisco



## 2018 Summit - Guadalajara, Jalisco



# Benefits of Sponsorship (1/4)

## ❖ President (\$50,000)

- Prominent recognition as President Level Sponsor
- Recognition by MC during opening sessions
- Speaking role in the program
- Brand visibility on event website and advanced digital promotion
- Logo inclusion on event site and attendee list
- Full page ad in program book
- Exhibit Table
- Short promotional video message run during program
- Dedicated social media post to thank you for your support
- Inclusion in additional Summit social media promotion
- Recognition on SCI's website Donor Wall
- **15 full-Summit Tickets**

# Benefits of Sponsorship (2/4)

## ❖ Ambassador (\$25,000)

- Recognition by MC during opening sessions
- Brand visibility on event website and advanced digital promotion
- Logo inclusion on event site and attendee list
- Full page ad in program book
- Exhibit Table
- Short promotional video message run during program
- Dedicated social media post to thank you for your support
- Inclusion in additional Summit social media promotion
- Recognition on SCI's website Donor Wall
- **10 full-Summit Tickets**



## Benefits of Sponsorship (3/4)

### ❖ **Minister (\$15,000)**

- Recognition by MC during opening session
- Brand Visibility on event website and advanced digital promotion
- Logo inclusion on event site and attendee list
- Half-page ad in program book
- Exhibit Table
- Dedicated social media post to thank you for your support
- Inclusion in additional social media promotion
- Recognition on SCI's website Donor Wall
- **8 full-Summit Tickets**

### ❖ **Special Envoy (\$10,000)**

- Brand Visibility on event website and advanced digital promotion
- Logo inclusion on event site and attendee list
- Half-page ad in program book
- Dedicated social media post to thank you for your support
- Inclusion in additional social media promotion
- Recognition on SCI's website Donor Wall
- **5 full-Summit tickets**

# Benefits of Sponsorship (4/4)

## ❖ **Consul General (\$5,000)**

- Brand Visibility on event website and advanced digital promotion
- Logo inclusion on event site and attendee list
- Quarter-page ad in program book
- Social Media promotion
- Recognition on SCI's website Donor Wall
- **Three full-Summit Tickets**

## ❖ **Attaché (\$2,500)**

- Brand Visibility on event website and advanced digital promotion
- Listing (no logo) on site and attendee list
- Social Media promotion
- Recognition on SCI's website Donor Wall
- **Two full-Summit tickets**

### Sponsorship Levels and Benefits

	President	Ambassador	Minister	Special Envoy	Consul General	Attache
	\$50,000	\$25,000	\$15,000	\$10,000	\$5,000	\$2,500
Prominent recognition as President Level Sponsor	•					
Recognition by MC during opening sessions	•	•	•			
Speaking role in the program	•					
Brand visibility on the event website and advance digital promotion	•	•	•	•	•	•
Logo included on onsite signage and attendee list	•	•	•	•	•	
Listing (no logo) on onsite signage and attendee list						•
Ad in program book	Full page	Full page	1/2 page	1/2 page	1/4 page	Listing

### Sponsorship Levels and Benefits

	President	Ambassador	Minister	Special Envoy	Consul General	Attache
	\$50,000	\$25,000	\$15,000	\$10,000	\$5,000	\$2,500
Exhibit table	•	•	•			
Opportunity to have a short promotional video message run during the program	•	•				
Dedicated social media post to thank you for your support	•	•	•	•		
Social media promotion	•	•	•	•	•	•
Recognition on SCI's Virtual Donor Wall throughout 2022 and 2023	•	•	•	•	•	•
Full Summit registrations <i>Each full summit registration includes one ticket to the Mayor's Welcome Reception, Thursday Tijuana Summit sessions, Friday Summit in San Diego and closing event)</i>	15	10	8	5	3	2



## 2020 Summit - Ciudad Juárez, Chihuahua



## 2020 Summit - El Paso, Texas



# 2022 U.S. – Mexico Mayors' Community Summit

- ❖ Day 1: Welcome Reception in San Diego's historic Balboa Park
- ❖ Day 2: Full day program in Tijuana, BC
- ❖ Day 3: Full day program in San Diego, CA
- ❖ Day 4: SCI Leadership Meetings

## Highlights:

- ❖ Keynote Speakers
- ❖ Panel discussions
- ❖ “Ted” style talks with industry, diplomatic & cultural leaders
- ❖ Optional guided regional tours



# Check Out Our Past Sponsors

*The Coca-Cola Company*



**Walmart**   
Save money. Live better.

 **airbnb**



  
**ARCACONTINENTAL**  
*Coca-Cola* SOUTHWEST  
BEVERAGES

 **ADEC INNOVATIONS**  
WHERE IMPACT MATTERS



**CNIT**  
Cámara Nacional  
de la Industria Tequilera

*Visit*   
**EL PASO**

 **transtelco**



**SRE**  
SECRETARÍA DE  
RELACIONES  
EXTERIORES

 **TOYOTA**  
Motor **Texas**  
Manufacturing

**svb**   
Silicon Valley Bank

 **Brooks**

**AMD** 

 **IBC  
BANK**  
DOING MORE SINCE 1966

**PORT**  **SAN ANTONIO**

 **Frost** BANKING  
INVESTMENTS  
INSURANCE

**JABIL**

  
**EL PASO**  
COMMUNITY  
FOUNDATION



**HUNT INSTITUTE**  
FOR GLOBAL COMPETITIVENESS



**City of Las Cruces**  
PEOPLE HELPING PEOPLE



# **U.S. – MEXICO MAYORS’ COMMUNITY SUMMIT**

**SAN DIEGO, CA & TIJUANA, BC | OCTOBER 11–14, 2022**

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For more information visit:

**<https://www.usmexicosummit.com>**



Legislation Text

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File #: 22-1099, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Members of the City Council, Representative Alessandra Annello, (915) 212-0002

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action to allow the Animal Shelter Advisory Committee ("ASAC") to participate in bi-annual events that do not require a monetary contribution in partnership with City of El Paso Animal Services and other organizations to increase adoptions, raise public awareness, and address the needs and welfare of animals, pursuant to Ordinance No. 017746, ASAC originating ordinance.

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
AGENDA SUMMARY FORM**

**DEPARTMENT:** MAYOR AND COUNCIL

**AGENDA DATE:** August 30, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:**

City Representative Aleksandra Annello, 915-212-0002

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** (Goal 8 - Nurture & Promote a Healthy, Sustainable Community )

**SUBJECT:**

**APPROVE** a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Discussion and Action to allow the Animal Shelter Advisory Committee ("ASAC") to participate in bi-annual events that do not require a monetary contribution in partnership with City of El Paso Animal Services and other organizations to increase adoptions, raise public awareness, and address the needs and welfare of animals, pursuant to Ordinance No. 017746, ASAC originating ordinance.

**BACKGROUND / DISCUSSION:**

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

N/A

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one?

N/A

**AMOUNT AND SOURCE OF FUNDING:**

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

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



El Paso, TX

300 N. Campbell  
El Paso, TX

## Legislation Text

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**File #:** 22-1136, **Version:** 1

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### **CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM**

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

##### **District 2**

Members of the City Council, Representative Alessandra Annello, (915) 212-0002

#### **AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action to recognize September as Suicide Prevention Month, a time for people to raise awareness of suicide prevention, treatment, and recovery.

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
AGENDA SUMMARY FORM**

**DEPARTMENT:** MAYOR AND COUNCIL

**AGENDA DATE:** August 30, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:**

City Representative Aleksandra Annello, 915-212-0002

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** (Goal 8 - Nurture & Promote a Healthy, Sustainable Community )

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

Discussion and action to recognize September as Suicide Prevention Month, a time for people to raise awareness of suicide prevention, treatment, and recovery.

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

September is Suicide Prevention And Awareness Month

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one?

N/A

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

N/A

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

## **RESOLUTION**

**WHEREAS**, September is recognized as Suicide Prevention Month, a time for people to raise awareness of suicide prevention, treatment, and recovery; and

**WHEREAS**, suicide is the second leading cause of death for people aged ten to thirty-four, and fourth leading cause of death for people aged thirty-four to fifty-four, and 46% percent of people who die by suicide had a diagnosed mental health condition; and

**WHEREAS**, during the pandemic, hospital admissions for teenage girls who may have attempted suicide increased 50%, with lesbian, gay, and bisexual youth four times more likely to attempt suicide than straight youth, and transgender people are twelve times more likely to attempt suicide than the general population; and

**WHEREAS**, veterans represented almost 14% of suicides among U.S. adults in 2019; and

**WHEREAS**, as a community it is vital we learn to identify symptoms of mental health conditions and warning signs of suicide in order to step in and help individuals to get help before it is too late as well as to dismantle stigma and misinformation; and

**WHEREAS**, together, spreading public awareness, educating families and friends, advocating for mental health care expansion, and improving our behavioral system will help the lives of individuals living with mental health conditions and their families; and

**WHEREAS**, the National Alliance on Mental Illness (NAMI) of El Paso along with El Paso VA and Emergence Health Network will host a vigil to honor those lost to suicide on September 22, 2022, at San Jacinto Plaza at 6PM; and

**WHEREAS**, El Pasoans can text “NAMI” to 741-741 to access the Crisis Text line, can call the nationwide suicide crisis line at 9-8-8, or the Emergence Health Network Crisis line at 915-779-1800 if they or a loved one are experiencing a mental health crisis; and

**WHEREAS**, September 10<sup>th</sup> is World Suicide Prevention Day, which has been recognized internationally and is supported by the World Health Organization.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City of El Paso will recognize September as Suicide Prevention Awareness month in commemoration of those lost to suicide.

*(Signatures on following page)*

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

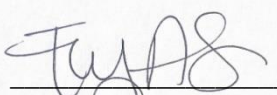
**THE CITY OF EL PASO:**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Evy A. Sotelo  
Assistant City Attorney





El Paso, TX

300 N. Campbell  
El Paso, TX

## Legislation Text

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**File #: 22-1100, Version: 1**

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### **CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM**

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

##### **All Districts**

Animal Services Department, Terry Kebschull, (915) 212-8742

#### **AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Presentation and discussion on El Paso Animal Services management update.

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

**AGENDA DATE:**  
**PUBLIC HEARING DATE:**

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

**DISTRICT(S) AFFECTED:**

**STRATEGIC GOAL:**

**SUBGOAL:**

**SUBJECT:**

*APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.*

**BACKGROUND / DISCUSSION:**

*Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?*

**PRIOR COUNCIL ACTION:**

*Has the Council previously considered this item or a closely related one?*

**AMOUNT AND SOURCE OF FUNDING:**

*How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?*

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_\_\_\_ YES \_\_\_\_ NO**

**PRIMARY DEPARTMENT:**  
**SECONDARY DEPARTMENT:**

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

**DEPARTMENT HEAD:**

*Lory K Kebschull*

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



Legislation Text

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File #: 22-1115, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

Fire, Chief Jonathan P. Killings, (915) 493-5609

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to the Strategic Plan is subsection: 2.3 - Increase public safety operational efficiency.

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to TargetSolutions Learning, LLC d/b/a Vector Solutions, the sole provider for the annual maintenance of Target Solutions training software for Fire Department uniform personnel and 911 Communications personnel for a term of three (3) years for an estimated amount of \$182,714.13 with the stipulation that the vendor provides an updated sole source letter and affidavit each year. The award of this contract will allow the use of this continuing education software for the El Paso Fire Department uniform personnel and 911 Communications personnel to track training and credentials to meet Texas Commission on Fire Protection (TCPF) and Texas Department of State Health Services (TDSHS) requirements.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: A decrease of \$7,496.37, which represents a 3.94% decrease due to the reduced number of access to personnel.

Department:	Fire
Award to:	TargetSolutions Learning, LLC d/b/a Vector Solutions
	Tampa, FL
Term:	3 years
Annual Estimated Amount:	\$ 60,904.71
Total Estimated Award:	\$182,714.13 (3 Years)
Account No.:	522020-239-1000-15240-P1506
Funding Source:	General Funds
Districts(s):	All
Sole Source No.:	2022-0924

This is a Sole Source, service contract.

The Purchasing & Strategic Sourcing and Fire Departments recommend award as indicated to TargetSolutions, LLC d/b/a Vector Solutions the sole provider for the annual maintenance of Target Solutions training software.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** NA

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Jonathan P. Killings, Interim Fire Chief, (915) 493-5609  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** 2 – Set the Standard for a Safe and Secure City

**SUBGOAL:** 2.3 – Increase public safety operational efficiency.

**SUBJECT:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Target Solutions Learning, LLC d/b/a Vector Solutions, the sole provider for the annual maintenance of Target Solutions training software for Fire Department uniform personnel and 911 Communications personnel for a term of three (3) years for an estimated amount of \$182,714.13 with the stipulation that the vendor provides an updated sole source letter and affidavit each year. The award of this contract will allow the use of this continuing education software for the El Paso Fire Department uniform personnel and 911 Communications personnel to track training and credentials to meet Texas Commission on Fire Protection (TCFP) and Texas Department of State Health Services (TDSHS) requirements.

**BACKGROUND / DISCUSSION:**

Target Solutions is a training database used to create and track classes, certifications, and expirations. Provides nationally authorized On-Line continuing education (CE). Used to track El Paso Fire Department training and credentials. Meets requirements from Texas Commission on Fire Protection and Texas Department of State Health Services for training data acquisition and tracking. Provides reports for needs analysis and Strategic Plan measurements. Provides approved CEs for both TCFP and TDSHS. Provides means of distributing department created classes online.

**SELECTION SUMMARY:**

NA

**CONTRACT VARIANCE:**

The difference based in comparison to the previous contract is as follows: A decrease of \$7,496.37, which represents a 3.94% decrease due to the reduced number of access to personnel.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

NA

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$182,714.13  
Funding Source: 522020-239-1000-15240-P1506  
Account: General Funds

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?   X   YES      NO

PRIMARY DEPARTMENT: Fire  
SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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

DEPARTMENT HEAD:



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Interim Fire Chief Jonathan P. Killings, El Paso Fire Department

**COUNCIL PROJECT FORM  
(SOLE SOURCE)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of August 30, 2022.

**Strategic Goal 2: Set the Standard for a Safe and Secure City**

The linkage to the Strategic Plan is subsection: 2.3 – Increase public safety operational efficiency.

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Target Solutions Learning, LLC d/b/a Vector Solutions, the sole provider for the annual maintenance of Target Solutions training software for Fire Department uniform personnel and 911 Communications personnel for a term of three (3) years for an estimated amount of \$182,714.13 with the stipulation that the vendor provides an updated sole source letter and affidavit each year. The award of this contract will allow the use of this continuing education software for the El Paso Fire Department uniform personnel and 911 Communications personnel to track training and credentials to meet Texas Commission on Fire Protection (TCPF) and Texas Department of State Health Services (TDSHS) requirements.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: A decrease of \$7,496.37, which represents a 3.94% decrease due to the reduced number of access to personnel.

Department:	Fire
Award to:	Target Solutions, LLC d/b/a Vector Solutions Tampa, FL
Term:	3 years
Annual Estimated Amount:	\$ 60,904.71
Total Estimated Award:	\$182,714.13 (3 Years)
Account No.:	522020-239-1000-15240-P1506
Funding Source:	General Funds
Districts(s):	All
Sole Source No.:	2022-0924

This is a Sole Source, service contract.

The Purchasing & Strategic Sourcing and Fire Departments recommend award as indicated to TargetSolutions, LLC d/b/a Vector Solutions the sole provider for the annual maintenance of Target Solutions training software.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

**PURCHASING & STRATEGIC SOURCING DEPARTMENT****SOLE SOURCE AFFIDAVIT**

THIS IS AN OFFICIAL PURCHASING DOCUMENT-RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared \_\_\_\_\_ a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is Brandi Howe. I am over the age of 18, have never been of a convicted crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: Vector Solutions
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):  
Target Solutions CMS
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. **Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.**

Brandi Howe  
Signature

SUBSCRIBED AND SWORN to before me on this \_\_\_\_\_ day of \_\_\_\_\_

NOTARY PUBLIC

PRINTED NAME

MY COMMISSION EXPIRES

COMPANY NAME: Target Solutions Learning, LLC / Vector Solutions  
ADDRESS, CITY, STATE & ZIP CODE: 4890 W Kennedy Blvd Suite 300 Tampa FL 33609  
PHONE: (800) 840-8048 FAX NUMBER: \_\_\_\_\_  
CONTACT NAME AND TITLE: Brandi Howe Senior Director of Renewal Management  
WEB ADDRESS: \_\_\_\_\_ EMAIL: brandi.howe@vector-solutions.com  
FEDERAL TAX ID NUMBER: 26-3827779 TEXAS SALES TAX NUMBER: \_\_\_\_\_



# CALIFORNIA CERTIFICATE OF ACKNOWLEDGMENT

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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of SAN DIEGO )

On July 19<sup>th</sup>, 2022 before me, KARLYNN K. Arnold-Andrade, Public, <sup>Notary</sup>  
(here insert name and title of the officer)

personally appeared Brandi Howe

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Karlyn K. Arnold

(Seal)

## Optional Information

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

### Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of \_\_\_\_\_

containing \_\_\_\_\_ pages, and dated \_\_\_\_\_

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)  
☐ Attorney-in-Fact  
☐ Corporate Officer(s) \_\_\_\_\_  
 Title(s)

- ☐ Guardian/Conservator  
☐ Partner - Limited/General  
☐ Trustee(s)  
☐ Other: \_\_\_\_\_

representing: \_\_\_\_\_  
 Name(s) of Person(s) or Entity(ies) Signer is Representing

### Additional Information

#### Method of Signer Identification

Proved to me on the basis of satisfactory evidence:  
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:  
 Page # \_\_\_\_\_ Entry # \_\_\_\_\_

Notary contact: \_\_\_\_\_

#### Other

☐ Additional Signer(s) ☐ Signer(s) Thumbprint(s)

☐ \_\_\_\_\_

## Sole Source Justification

*Training Management | Operations & Asset Management | Workforce Management | EHS Management*

This document serves as a sole source justification for Vector Solutions' integrated suite of systems for online training and live skill evaluations, operations and asset management (TargetSolutions Check It™), workforce management (TargetSolutions Scheduling™), and EHS management which are all developed and provided solely by TargetSolutions.

### Service Description

TargetSolutions' industry-leading online training, operations, scheduling, evaluations and EHS management system is a comprehensive suite of proprietary web-based solutions for Fire and EMS departments and is the industry's only all-in-one operational hub for the management of training, assets, employee scheduling, skill assessments and safety compliance. The unique, one-of-a-kind software features exclusive fire department software tools, including best-in-class training courses and recordkeeping applications.

Here are TargetSolutions' online training management system's key differentiators that make it stand apart in the industry:

- TargetSolutions features the industry's leading learning management system for scheduling, delivering and tracking online training courses
- TargetSolutions offers more than 500 hours of training for fire departments, including more than 250 hours of accredited EMS continuing education courses
  - TargetSolutions is organizationally accredited through CAPCE, the Commission on Accreditation for Pre-Hospital Continuing Education
  - TargetSolutions features NFPA 1001, NFPA 1021, NFPA 1410, NFPA 1500, as well as Occupational Safety and Health Administration (OSHA), and more in its training catalog
- The TargetSolutions platform features unique applications for managing fire department training, recordkeeping, and compliance tasks, including:
  - Activities Builder
  - Credentials Manager
  - ISO Training Tracker
  - Community Resources
  - File Center
  - Test Builder
  - Generate Reports
  - Events Manager
- TargetSolutions' Enterprise solution enables agencies to collaborate in a shared training platform while still managing their own TargetSolutions sites

Vector Evaluations+, a live skill evaluation solution, modernizes skill assessments with electronic skill sheets and forms that are accessible via a mobile app or web-based system. Here are a few key benefits of this solution:

- Measure and track competencies with digital skill sheets that help determine proficiency and compare employee performance over time
- Mobile app to evaluate employees from the field and take in-app videos to record individual's abilities
- Recorded skill demonstrations serve as an educational tool to analyze performance and provide feedback
- Add evaluations to Credentials through the integrated TargetSolutions to ensure true mastery of a skillset to complete a taskbook
- Comprehensive, visual reports make it simple to oversee competencies and indemnify any deficiencies among personnel

The TargetSolutions platform can be extended to the TargetSolutions Check It™ operations and asset management system for conducting inspections of equipment, apparatus and inventory. Here are the key differentiators of TargetSolutions Check It™ that make it stand apart in the industry:

- Integrated mobile application and web-based platform accessible 24/7 to streamline inspections and maintenance for vehicles, equipment, controlled substances, medical supplies and other logged inventory
- Exclusive module for secure, cradle-to-grave management of controlled substances for ALS agencies.
- Secure tracking of expiration dates of all types of controlled substances and other resources assigned to a specific vehicle, person, or storage facility
- Built-in verification features, such as eSignatures, employee pin numbers, and facial recognition technology, to ensure accountability
- Push notifications, email alerts, and custom check-step comments to communicate the completion of an inspection, create check-step comments, or notify supervisors of issues
- Ability to open service tickets for apparatus or equipment in need of repair to track its status, costs, and other information with intuitive workflows
- Comprehensive reports with visually-driven data to view inspection history, usage, and other measurable steps

TargetSolutions Scheduling™ provides a workforce management and employee resourcing software built for the complex organizational tasks for mission-critical industries. Here are key differentiators of TargetSolutions Scheduling™ that make it stand out in the industry:

- A snapshot overview of shift schedules, minimum staffing levels, and employees' qualification in a dynamic workforce management dashboard
- Cloud-hosted, reliable data that is available 24/7 and accessible via the mobile application or any web-based device
- Interactive roster map with a live view of employee locations, traffic patterns, and 'hot spot' areas.
- Automatization tools to streamline overtime hiring, callbacks, and vacation requests with custom qualifiers to reduce human error or bias

- Shift trade dashboard for employees to self-manage shifts trades (based on qualifications) and hours owed/credited to coworkers
- Customizable and exportable reports with in-depth filters to analyze employee hours, payroll, overtime, and more

Vector EHS Management is a comprehensive safety tracking solution that offers a web-based system and mobile application to streamline incident reporting, corrective actions and producing OSHA forms. Here are key differentiators for Vector EHS Management that make it stand out:

- A mobile application that streamlines the incident reporting process and records incident details at the scene for accurate account of what occurred
- Easily manage the claims process and track every variable to minimize costs of worker's compensation or employee leave
- Track hazards or potential exposures with detailed reports and notify key stakeholders
- Assign corrective actions after incident investigations, such as refresher training, and communicate corrective tasks to personnel through Vector EHS Management
- Automatically translate incident reports to produce OSHA forms 300, 300A and 301 to easily export OSHA logs
- Comprehensive reports show incident history to identify trends, address problem areas and more

*Brandi Howe*    *March 3, 2022*

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Senior Director of Renewal Management

## TargetSolutions Learning, LLC Agreement Schedule A

**Date:** Tuesday, July 19, 2022

### Client Information

<b>Client Name:</b> El Paso Fire Department (TX)	
<b>Address:</b> 8600 Montana AVE El Paso, TX 79925-1214	
<b>Primary Contact Name:</b>	<b>Primary Contact Phone:</b>

### Agreement Term

<b>Effective Date:</b> 09/01/2022	<b>Initial Term:</b> 36 months
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### Invoicing Contact Information (Please fill in missing information)

<b>Billing Contact Name:</b> El Paso FD Purchasing		
<b>Billing Address:</b> 416 N Stanton Street, Suite 200, ATTN: Accounts Payable El Paso, Texas 79901-1242		<b>Billing Phone:</b>  <b>Billing Email:</b> fd-purchasing@elpasotexas.gov
<b>PO#:</b>	<b>Billing Frequency:</b> Annual	<b>Payment Terms:</b> Net 30

### Annual Fee(s)

Product Code	Product	Description	Minimum Annual Commitment	Price	Sub Total
TSPREMIER	Vector LMS, TargetSolutions Edition Premier Membership	Training management for public entities and professionals	925	\$58.80	\$54,390.00
TSMINTFEES	Vector LMS, TargetSolutions Edition - Maintenance Fee	Annual maintenance of Vector LMS, TargetSolutions Edition	1	\$195.00	\$195.00
TSPREMIER	Vector LMS, TargetSolutions Edition Premier Membership	Dispatchers	129	\$48.99	\$6,319.71

Annual Total:      \$60,904.71

### One-Time Fee(s)

Product Code	Product	Description	Qty	Price	Sub Total
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One-Time Total: \$0.00

**Grand Total (including Annual and One-Time): \$60,904.71**

*Please note this is not an invoice. An invoice will be sent within fourteen (14) business days.*

Additional Terms and Conditions.

The following are in addition to the Client Agreement General Terms and Conditions.

1. Additional Named Users added after the Effective Date will be invoiced at the full per Named User fee. Such additional Named Users shall become part of the Minimum Annual Commitment for subsequent years, on the anniversary date of each contract year or upon renewals under the Agreement.
2. You agree to pay for the number of Named Users using or licensed to access the Services in a given contract year. Subject to the Minimum Annual Commitment, Changes in Named User counts will be reflected in the annual contract amount from that period forward for all Users.
3. Subject to the above Minimum Annual Commitment, annual fees for your use of the Services will be based upon the number of Named Users in a given contract year.
4. Named Users deactivated in a given contract year will not count towards the total number of Named Users in the year following such deactivation, unless reactivated.
5. Fees, both during the Initial Term, as well as any Renewal Terms, shall be increased by 0.0% per contract year. Changes in Named User counts will be reflected in the annual contract amount from that period forward for all Users.
6. All undisputed invoices are due and payable Net 30 days after invoice date ("Due Date"). Any fees unpaid for more than 10 days past the Due Date shall bear interest at 1.5% per month or the highest applicable rate permitted by law.
7. **AUTOMATIC RENEWAL. UNLESS OTHERWISE AGREED OR WHERE PROHIBITED BY APPLICABLE LAW OR REGULATION, UPON EXPIRATION OF THE ABOVE INITIAL TERM, THIS AGREEMENT WILL RENEW FOR A RENEWAL TERM EQUAL TO THE INITIAL TERM AT VECTOR SOLUTIONS' THEN CURRENT FEES, UNLESS NOTICE IS GIVEN BY EITHER PARTY OF ITS INTENT TO TERMINATE THE AGREEMENT AT LEAST SIXTY (60) DAYS PRIOR TO THE SCHEDULED TERMINATION DATE.**

**Address for Notices:**

4890 W. Kennedy Blvd., Suite 300  
Tampa, FL 33609

8600 Montana AVE  
El Paso, TX 79925-1214



## VECTOR SOLUTIONS PUBLIC SECTOR SOFTWARE AS A SERVICE AGREEMENT

This Vector Solutions Software as a Service Agreement (the “Agreement”), effective as of the date noted in the attached Schedule A (the “Effective Date”), is by and between **TargetSolutions Learning, LLC, d/b/a Vector Solutions**, (“We/Us”) a Delaware limited liability company, and the undersigned customer (“You/Your”), (each a “Party” or “Parties”) and governs the purchase and ongoing use of the Services described in this Agreement.

### GENERAL TERMS AND CONDITIONS

#### 1. **SERVICES.** We shall provide the following Software as a Service (“**Services**”):

1.1. Access and Use. We grant You a non-exclusive, non-transferable revocable authorization to remotely access and use the software as a service offering identified in Schedule A (the “**Services**”) and, unless prohibited by law, We will provide access to any persons You designate for use as described in these terms and conditions. For clarification, We authorize access and use on a “one user per one authorization basis” and once granted, You are not allowed to transfer authorizations to other users. Your ability to use the Services may be affected by minimum system requirements or other factors, such as Your Internet connection.

1.2. Availability. We will use commercially reasonable efforts to provide access to and use of the Services twenty-four (24) hours a day, seven (7) days a week, subject to scheduled downtime for routine maintenance, emergency maintenance, system outages, and other outages beyond our control.

1.3. Help Desk. We will assist You as needed on issues relating to usage via e-mail, and a toll-free Help Desk five (5) days per week, at scheduled hours, currently 8:00am to 6:00 pm Eastern Time, Monday-Friday or <https://support.vectorsolutions.com/s/contactsupport>

1.4. Upgrades and Updates. We reserve the right, in our discretion, to make updates or upgrades to the Services that are necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of the Services; (ii) the competitive strength of or market for the Services; or (iii) the Services’ cost efficiency or performance; or (b) to comply with applicable law. For no additional charge, You will receive access to any general upgrades and updates to the Services which We make generally available to our other customers. All updates and upgrades to the Services are subject to these terms and conditions.

1.5. Additional Services. From time to time, the Parties may decide in their discretion to add additional Services, subject to the Parties’ execution of one or more change forms which shall be substantially in the form of the Schedule A and shall incorporate these terms and conditions by reference. Each individual Schedule A shall have its own service term.

#### 2. **YOUR RESPONSIBILITIES AND USE RESTRICTIONS.**

2.1. Compliance. You shall be responsible for all Users’ compliance with this Agreement and shall use commercially reasonable efforts to prevent unauthorized access to or use of the Services. You shall comply with all applicable laws, standards, and regulations and will not use the Services in a manner not specified or permitted by Us.

2.2. Identify Named Users. A “**Named User**” is defined as Your employees, consultants, contractors, and agents You authorize to access and use the Services You are purchasing during each contract year (“Term”) of the Agreement.

2.2.1. You will be responsible for the following: (a) cause each of Your Named Users to complete a unique profile if not created by Vector Solutions on their behalf; and (b) timely maintain a user database by adding a unique profile for each new Named User. Due to licensing and data retention requirements, Named Users may not be removed from our system unless required by law. You will be responsible for identifying Named Users from time to time during the Term of this Agreement through available system capabilities.

2.3. Future Functionality. You agree that Your purchases are not contingent on Our delivery of any future functionality or features. You are not relying on any comments regarding future functionality or features.

#### 3. **FEES AND PAYMENTS.**

3.1. Fees and Payment. You will pay for the Services in accordance with the payment terms, frequency, and fee schedule in Schedule A attached to this Agreement. All fees collected by Us under this Agreement are fully earned when due and nonrefundable when paid, except if You terminate this Agreement for cause as described in Section 5.2.

3.2. Due Date. All fees due under this Agreement must be paid in United States Dollars or Canadian Dollars or as specified in Schedule A as applicable to Your location. We will invoice You in advance and all undisputed invoices are due and payable on the due date specified in Schedule A.

3.3. Suspension of Service. If You do not make an undisputed payment on time, We may suspend Your or Your Named Users’ access to the Services without further notice until all overdue payments are paid in full. Our suspension of Your use of the Services or termination of the Agreement for Your violation of the terms of this Agreement will not change Your obligation to pay any and all payments due for the applicable Term.

3.3.1. We may also suspend, terminate, or otherwise deny Your access or any Named User's access to or use of all or any part of the Services, without incurring any liability to You, if: (a) We receive a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires Us to do so; or (b) We believe, in good faith and reasonable discretion, that: (i) You or any Named User, have failed to comply with any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted, or for a purpose not authorized under this Agreement; or (ii) Your use of the Services causes a direct or indirect threat to our network function or integrity, or to Our other customers' ability to access and use the Services; or (iii) You or any Named User, are or have been involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Services; or (iv) this Agreement expires or is terminated. This Section 3.3 does not limit any of Our other rights or remedies under this Agreement.

3.4. **Taxes.** All fees under this Agreement exclude all sales, use, value-added taxes, and other taxes and government charges, whether Federal, State, or foreign, and You will be responsible for payment of all such taxes (other than taxes based on our income), fees, duties, and charges, and any related penalties and interest, arising from the payment of any and all fees under this Agreement including the access to or performance of the Services hereunder. If We have a legal obligation to pay or collect taxes for which You are responsible under the Agreement, then then We will invoice, and You will pay the appropriate amount unless You claim tax exempt status for amounts due under this Agreement and provide Us with a valid tax exemption certificate (authorized by the applicable governmental authority) promptly upon execution of this Agreement. If any taxes shall be required by law to be deducted or withheld from any fee payable hereunder by You to Us, You shall, after making the required deduction or withholding, increase such fee payable as may be necessary to ensure that We shall receive an amount equal to the fee We would have received had no such deduction or withholding been made.

#### 4. INTELLECTUAL PROPERTY RIGHTS.

4.1. We alone (and our licensors, where applicable) shall own all rights, title, and interest in and to our software, website and technology, the course content (if any), and the Services We provide, including all documentation associated with the Services. If You provide any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by You (collectively "**Feedback**"), We may use such Feedback to improve the Services without charge, royalties, or other obligation to You, and Our use of Your Feedback does not give You any property rights to the Services.

The Vector Solutions name and logo are trademarks of Vector Solutions, and no right or license is granted to You to use them. You shall own all rights, title, and interest in and to Your added software, Your content, and information collected from Your content pages ("**Your Data**"). You shall have no rights in or to any other data collected that is not affiliated with You. Your content, email addresses, and personal information of Your Named Users or Your EHS Active Employees You entered into the database, or any of Your customers or users is Your sole property. We will not, at any time, redistribute, share, or sell any of Your email addresses, email server domain names, customer names, or personal information. Course content that You purchase from third-party course providers and access through our LMS will require the sharing of certain user information with Us in order for Us to properly track and report usage.

4.2. You recognize that We regard the software We have developed to deliver the Services as our proprietary information and as confidential trade secrets of great value. You agree not to provide or to otherwise make available in any form the software or Services, or any portion thereof, to any person other than Your Named Users without our prior written consent. You further agree to treat the Services with at least the same degree of care with which You treat Your own confidential information and in no event with less care than is reasonably required to protect the confidentiality of the Services.

4.2.1 Except as otherwise agreed in writing or to the extent necessary for You to use the Services in accordance with this Agreement, You are not allowed to: (a) copy the course content in whole or in part; (b) display, reproduce, create derivative works from, transmit, sell, distribute, rent, lease, sublicense, transfer or in any way exploit the course content in whole or in part; (c) embed the course content into other products; (d) use any of our trademarks, service marks, domain names, logos, or other identifiers or any of our third party suppliers; (e) reverse engineer, decompile, disassemble, or access the source code of any of our Services or software, (f) use the software or Services for any purpose that is unlawful; (g) alter or tamper with the Services and/or associated documentation in any way; (h) attempt to defeat any security measures that We may take to protect the confidentiality and proprietary nature of the Services; (i) remove, obscure, conceal, or alter any marking or notice of proprietary rights that may appear on or in the Services and/or associated documentation; or (j) except as permitted by this Agreement, knowingly allow any individual or entity under Your control to access Services without authorization under this Agreement for such access.

4.3. We acknowledge that You alone shall own all rights, title, and interest in and to Your name, trademarks, or logos, and this Agreement does not give Us any rights of ownership to the same. You hereby authorize Us to use Your name, trademarks, or logos in promotional materials, press releases, advertising, or in other publications or websites, whether oral or written. If You do not consent to Our use of Your name or logo, You may withdraw Your consent at any time by notifying Us at [logousage@vectorsolutions.com](mailto:logousage@vectorsolutions.com).

#### 5. TERM, TERMINATION, AND NOTICE.

5.1 **Term.** The term of this Agreement will start on the Effective Date, and will remain in full force and effect for the initial term (the "**Initial Term**") indicated in Schedule A. Upon expiration or early termination of this Agreement by either Party as described below in Section 5.2 (Termination for Cause) or for any reason, You shall immediately discontinue all use of the Services and documentation, and You acknowledge that We will terminate Your ability to access the Services. Notwithstanding, access to the



Services may remain active for thirty (30) days solely for purpose of our record keeping (the “**Expiration Period**”). If You continue to access or use the Services following the Expiration Period, then Your continued use will renew the Agreement under the same terms and conditions, subject to any annual price adjustments.

**5.2 Termination for Cause.** Either Party may terminate this Agreement, effective upon written notice to the other Party (the “**Defaulting Party**”), if the Defaulting Party materially breaches this Agreement, and that breach is incapable of cure, or with respect to a material breach capable of cure, and the Defaulting Party does not cure the breach within thirty (30) days after receipt of written notice of the breach. If You terminate this Agreement due to Our material breach, then We will return an amount equal to the pro-rated fees already paid for the balance of the term as of the date of termination as Your only remedy.

**5.3. Notice.** All required notices by either Party shall be given by email, personal delivery (including reputable courier service), fees prepaid, or by sending the notice by registered or certified mail return receipt requested, postage prepaid, and addressed as set forth in Schedule A. Such notices shall be deemed to have been given and delivered upon receipt or attempted delivery (if receipt is refused), as the case may be, and the date of receipt identified by the applicable postal service on any return receipt card shall be conclusive evidence of receipt. Notices and other communications sent by e-mail shall be deemed received upon the sender's receipt of an acknowledgment from the recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment). Either Party, by written notice to the other as described above, may alter its address for written notices.

## **6. MUTUAL WARRANTIES AND DISCLAIMER.**

**6.1. Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing, and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization; (b) it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement; (c) the acceptance of this Agreement has been duly authorized by all necessary corporate or organizational action; and (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid, and binding obligation of each Party, enforceable against each Party in accordance with its terms.

**6.2. Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WE DO NOT WARRANT THAT THE USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. THE SERVICES AND ASSOCIATED DOCUMENTATION ARE PROVIDED “AS IS,” AND WE PROVIDE NO OTHER EXPRESS, IMPLIED, STATUTORY, OR OTHER WARRANTIES REGARDING THE SERVICES OR ASSOCIATED DOCUMENTATION.

**6.3. Disclaimer of Third-Party Content.** If You upload third-party content to our platform or Services, the third-party content providers are responsible for ensuring their content is accurate and compliant with national and international laws. We are not and shall not be held responsible or liable for any third-party content You provide or Your use of that third-party content. THERE IS NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THIRD PARTY CONTENT ACCESSIBLE THROUGH THE SERVICES.

**6.4** None of our employees, marketing partners, resellers, or agents are authorized to make any warranty other than the Warranties stated in this Agreement. The provisions in any specification, brochure, or chart are descriptive only and are not warranties.

**7. LIMITATION OF LIABILITY. EXCEPT FOR CLAIMS RELATED TO VIOLATION OF INTELLECTUAL PROPERTY RIGHTS, GROSS NEGLIGENCE, FRAUD, OR WILFULL MISCONDUCT, (A) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY, ANY AFFILIATE, THIRD-PARTY, OR YOUR USERS, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, AND (B) IF YOU HAVE ANY BASIS FOR RECOVERING DAMAGES (INCLUDING FOR BREACH OF THIS AGREEMENT), YOU AGREE THAT YOUR EXCLUSIVE REMEDY WILL BE TO RECOVER DIRECT DAMAGES FROM US, UP TO AN AMOUNT EQUAL TO THE TOTAL FEES ALREADY PAID TO US FOR THE PRECEDING TWELVE (12) MONTHS.**

**7.1.1.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE TO YOU, ANY AFFILIATE, ANY THIRD PARTY OR YOUR USERS FOR ANY CLAIM, CAUSE OF ACTION, DEMAND, LIABILITY, DAMAGES, AWARDS, FINES, OR OTHERWISE, ARISING OUT OF OR RELATING TO PERSONAL INJURY, DEATH, OR OTHER HARM CAUSED FROM USE OF OR RELIANCE ON THE CONTENT OF THE COURSES OR SERVICES. YOU, YOUR AFFILIATES, EMPLOYEES, CONTRACTORS, AGENTS, USERS, AND REPRESENTATIVES RELY ON THE CONTENT OF THE COURSES AND SERVICES AT YOUR OWN RISK.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN TYPES OF DAMAGES SO, SOLELY TO THE EXTENT SUCH LAW APPLIES TO YOU, THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

## **8. OBLIGATIONS OF BOTH PARTIES.**

8.1. Our Obligation to You. We shall indemnify and hold You harmless from any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney fees, arising out of or resulting from any third-party claim that any document, course, or intellectual property We provide or upload to our platform infringes or violates any intellectual property right of any person.

8.2. Your Obligation to Us. To the extent not prohibited by applicable law, You shall indemnify and hold Us harmless from any and all claims, damages, losses, and expenses, including but not limited to reasonable attorney fees, arising out of or resulting from any third-party claim that any document, courses, or intellectual property You provide or upload to our platform infringes or violates any intellectual property right of any person.

## 9. CONFIDENTIALITY.

9.1. Each Party may from time to time disclose to the other Party "Confidential Information" which shall mean and include the Services (including without limitation all courses accessed through the Services), all documentation associated with the Services, software code (include source and object code), marketing plans, technical information, product development plans, research, trade secrets, know-how, ideas, designs, drawings, specifications, techniques, programs, systems, and processes.

9.2. Confidential Information does not include: (a) information generally available to or known to the public through no fault of the receiving Party; (b) information known to the recipient prior to the Effective Date of the Agreement; (c) information independently developed by the recipient outside the scope of this Agreement and without the use of or reliance on the disclosing Party's Confidential Information; or (d) information lawfully disclosed by a third party. The obligations set forth in this Section shall survive termination of this Agreement.

9.3. Each Party agrees that it shall not disclose the Confidential Information of the other to any third party without the express written consent of the other Party, that it shall take reasonable measures to prevent any unauthorized disclosure by its employees, agents, contractors or consultants, that it shall not make use of any such Confidential Information other than for performance of this Agreement, and that it shall use at least the same degree of care to avoid disclosure of Confidential Information as it uses with respect to its own Confidential Information.

9.4. The confidentiality obligations imposed by this Agreement shall not apply to information required to be disclosed by compulsory judicial or administrative process or by law or regulation, provided that the receiving Party shall (if permitted) notify the disclosing Party of the required disclosure, shall use reasonable measures to protect the confidentiality of the Confidential Information disclosed, and shall only disclose as much Confidential Information as is required to be disclosed by the judicial or administrative process, law, or regulation.

## 10. MISCELLANEOUS.

10.1. Assignment. Neither Party may freely assign or transfer any or all of its rights without the other Party's consent, except to an affiliate, or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided however You shall not assign this Agreement to our direct competitors.

10.2. Governing Law. This Agreement shall be governed by, and enforced in accordance with, the laws of the state of Florida, except where Customer is a public entity or institution in which case the applicable state, provincial, or tribal law where You are located shall govern, in either case without regard to the state's or local laws conflicts of laws provisions. If You are purchasing goods under this Agreement, the Parties agree that the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods shall not apply to this Agreement. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION ARISING HEREUNDER.

10.3. Export Regulations. All Content and Services and technical data delivered under this Agreement are subject to applicable US and Canadian laws and may be subject to export and import regulations in other countries. Both Parties agree to comply strictly with all such laws and regulations and You acknowledge that You are responsible for obtaining such licenses to export, re-export, or import as may be required after delivery.

10.4. Force Majeure. In no event will either Party be liable or responsible to the other Party or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, (except for any obligations to make payments) when and to the extent such failure or delay in performing is due to, or arising out of, any circumstances beyond such Party's control (a "**Force Majeure Event**"), including, without limitation, acts of God, strikes, lockouts, war, riots, lightning, fire, storm, flood, explosion, interruption or delay in power supply, computer virus, governmental laws, regulations, or shutdown, national or regional shortage of adequate power or telecommunications, or other restraints.

10.5. No Waiver. No waiver, amendment or modification of this Agreement shall be effective unless in writing and signed by the Parties.

10.6. Severability. If any provision of this Agreement is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect, but the remainder of this Agreement shall continue in full force and effect.

10.7. Survival. All provisions of this Agreement (including without limitation those pertaining to confidential information, intellectual property ownership, and limitations of liability) that would reasonably be expected to survive expiration or early termination of this Agreement will do so.

10.8. No Third-Party Beneficiaries. The Parties do not intend to confer any right or remedy on any third party under this Agreement.

10.9. Purchase Orders. You may issue a purchase order if required by Your company or entity and failure to do so does not cancel any obligation You have to Us. If You do issue a purchase order, it will be for Your convenience only. You agree that the terms and conditions of this Agreement shall control. Any terms or conditions included in a purchase order or similar document You issue that conflict with the terms and conditions of this Agreement will not apply to or govern the transaction resulting from Your purchase order.

10.10. Data Processing Agreement. If applicable, the parties shall negotiate in good faith and enter into any further data processing or transfer agreement, including any standard contractual clauses for transfers of data outside of the country where the personal data originates, as may be required to comply with applicable laws, rules and regulations regarding the collection, storage, transfer, use, retention and other processing of personal data.

10.11. Entire Agreement. This Agreement and Schedule A represent the entire understanding and agreement between the Parties, and supersedes all other negotiations, proposals, understandings, and representations (written or oral) made by and between You and Us. You acknowledge and agree that the terms of this Agreement are incorporated in, and are a part of, each purchase order, change order, or Schedule related to our provision of Services. This Agreement prevails over any additional or conflicting terms or conditions in any Customer purchase orders, online procurement terms, or other non-negotiated forms relating to the Services or this Agreement hereto even if dated later than the effective date of this Agreement.

## SPECIAL TERMS AND CONDITIONS

### CALIFORNIA CONSUMER PRIVACY ACT

If We will be processing personal information subject to the California Consumer Privacy Act, sections 1798.100 to 1798.199, Cal. Civ. Code (2018) as may be amended as well as all regulations promulgated thereunder from time to time ("**CCPA**"), on Your behalf in the course of the performance of the Services, then the terms "California consumer," "business purpose," "service provider," "sell" and "personal information" shall carry the meanings set forth in the CCPA.

CCPA Disclosures: To the extent the CCPA applies to our processing of any personal information pursuant to Your instructions in relation to this Agreement, the following also apply: (a) The Parties have read and understand the provisions and requirements of the CCPA and shall comply with them; (b) It is the intent of the Parties that the sharing or transferring of personal information of California consumers from You to Us, during the course of our performance of this Agreement, does not constitute selling of personal information as that term is defined in the CCPA, because You are not sharing or transferring such data to Us for valuable consideration; (c) We will only use personal information for the specific purpose(s) of performing the Services, including any Schedules within the direct business relationship with You.

## SERVICE SPECIFIC TERMS AND CONDITIONS

### A. Vector EHS Management Services

A. This Section A contains service specific terms and conditions that will apply only if You are purchasing **Vector EHS Management Services ("EHS Services")** in Schedule A. Otherwise, the following terms will not apply to You.

1. An "**EHS Active Employee**" is defined as Your employees, consultants, contractors, and agents who are contained in the Vector EHS employee and contractor table with an active status. An employee may or may not be a Named User. For EHS Services, You are allowed a Named User for each EHS Active Employee.
2. You will be able to activate or disable employees without incurring additional EHS Active Employee fees as long as the total number of EHS Active Employees does not exceed the number of employees included in Scheduled A.
3. EHS Active Employees added after the Effective Date in Schedule A shall be billed at the full per employee fee. Such additional EHS Active Employees shall become part of the Minimum Annual Commitment for subsequent years, on the anniversary date of each contract year or upon renewals under the Agreement.
4. You agree to pay for the number of EHS Active Employees in the EHS Services in a given contract year.
5. Subject to the Minimum Annual Commitment, if any, set forth in Schedule A, annual fees for Your use of the Services will be based upon the actual number of EHS Active Employees in a given contract year. Employees inactivated in a given contract year will not count towards the total number of employees in the year following such inactivation, unless reactivated.
6. You acknowledge that certain transmissions You receive as part of the EHS Services may contain sensitive personal information that You have provided. You understand that We do not control or own the data contained in such transmissions. As such, You will be responsible for ensuring that the information is secured and preventing the transmission and/or disclosure of such information to unauthorized recipient(s). In the event such information is disclosed to an unauthorized recipient(s), You shall be responsible for notifying Your EHS Active Employee(s) whose information may have been disclosed

to the extent required by law. Both Parties further agree to handle such data in compliance with any applicable Federal, State, or local laws or regulations. You shall also be responsible for any threatening, defamatory, obscene, offensive, or illegal content or conduct of any of Your EHS Active Employees when using the Services. To the extent not prohibited by applicable law, You shall indemnify, defend, and hold Us harmless against any claims that may arise as a result of these matters. With respect to Your use of the EHS Services, You acknowledge that We are not a covered entity or business associate under HIPAA.

## **B. Vector WorkSafe Services and Vector LiveSafe Services**

This Section B. contains service specific terms and conditions that will apply only if You are purchasing **Vector WorkSafe Services or Vector LiveSafe Services (collectively “LiveSafe Services”)** in Schedule A. Otherwise, the following terms will not apply to You.

1. **Authorized Users.** **Authorized Users** (interchangeably may be referred to as “Named Users” means the employees, contractors and/or consultants under Your control who You authorized to operate the LiveSafe Services .
2. **Your Responsibilities.** You shall: (i) not permit any person or entity, other than designated Authorized Users, to access the LiveSafe Services; (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the LiveSafe Services, (iii) provide prompt written notice of any unauthorized access or use; and (iv) instruct Authorized Users to comply with all applicable terms of this Agreement.
3. **Your Data.** You agree that We may only use data collected, extracted or received through Your use of the Services (“Your Data”) in an anonymized and aggregated manner (without specifically identifying You, Your users or Your location(s)) for the sole purpose of reporting LiveSafe Services metrics, training and education about the LiveSafe Services, and improving the LiveSafe Services (except as may be required by law, court order, or as needed to provide the Services to You). Your Data shall not include any information collected, extracted, or received in response to the WorkSafe Integrated Health Survey. Within thirty (30) business days following Your written request, and not more than four (4) times per year or upon termination of this Agreement, We will provide to You a backup copy of Your Data in Our possession.

## **C. Vector Evaluations+ Services.**

This Section C. contains service specific terms and conditions that will apply only if You are purchasing **Vector Evaluations+ Software as a Service** in Schedule A. Otherwise, the following terms will not apply to You.

1. **Access and Use.** We will provide You a nonexclusive, non-transferable, revocable authorization to remotely access and use the Vector Evaluations+ Software as a Service: (i) on Our application server over the Internet, (ii) transmit data related to Your use of the Service over the Internet, and (iii) download and use the Evals + mobile device application software (referred to collectively as “Evals+ Services”). We will provide accounts for Your users on the application server for storage of data and use of the Service. The number of Named Users, start of service, and duration, are as stated in Schedule A.
2. If Your active user accounts exceed the number of Named Users during the term of this Agreement, You agree to pay for the additional Users, based on the per User fees in Schedule A. Adjusted fees will apply beginning on the month the number of Named Users are exceeded and will be prorated for the remainder of the current 12-month period. You agree to pay for the number of Users using or authorized to access the Services in a given contract year.
3. **Your Content.** You will be the owner of all content created and posted by You. You will also be the owner of all content created and posted by Us on Your behalf, including but not limited to evaluation forms added to the system as part of support services We provide.
4. **Third-Party Content.** You are responsible for proper licensing of, and assuming liability for, copyrighted material which You post on Our system, or is posted on the system by Us on Your behalf. This includes but is not limited to copyright protected evaluation forms and other materials from third parties. If You upload third-party content to Our platform, such third-party content providers are responsible for ensuring their content is accurate and compliant with national and international laws.
5. **Effect of Termination.** You will have thirty (30) days after the effective date of termination or expiration of this Agreement to export Your data using the software tools provided, or to request Your data from Us. Form data will be available as exported comma separated variable (CSV) files and as PDF files. Uploaded data files will be available in their original format. After the thirty (30) day period, We have no obligation to maintain or provide data and may thereafter delete or destroy all copies of the Your data, unless legally prohibited.

## **D. Vector CheckIT™.**

**Customer Obligations.** When purchasing Vector CheckIT™, You will identify stations, vehicles, drug safes, and other service specific details, as may be applicable.

## **E. Vector LMS and Services which include access to the Shared Resource Feature.**

If You choose to participate by uploading Your information to the shared resource sections of our website, You hereby authorizes Us to share any intellectual property you own ("**User Generated Content**") that Your Users upload to the shared resources section of our website with our third-party customers and users that are unrelated to you ("**Our Other Customers**"); provided that We must provide notice to Your users during the upload process that such User Generated Content will be shared with Our Other Customers.

**F. Casino Services.**

When purchasing Casino Services, in addition to the Responsibilities and Restrictions in Section 2 of the General Terms and Conditions above, the following shall apply to You:

You must request Our written approval for third party access to the Services or content. Your request for third-party access shall include the third party's names, company, and contact information. Upon Our request, You shall execute a written agreement with the third party, securing for Us the rights provided in this Section, Section 4 (Intellectual Property Rights), and Special Section 1 (Confidentiality) prior to providing access to Our Software, Services or Content under this Agreement.


Use Restrictions. You shall not: (a) transmit or share the course content, with any persons other than authorized users (b) provide or otherwise make available the course content in whole or in part, in any form to any person without Our prior written consent; (c) transmit or share identification or password codes to persons other than authorized users (d) permit the identification or password codes to be cached in proxy servers, (e) permit access by individuals who are not authorized under this Agreement, or (f) permit access to the software through a single identification or password code being made available to multiple users on a network.

The Parties have executed this Agreement by their authorized representatives as of the last date set forth below.

TargetSolutions, LLC d/b/a Vector Solutions  
4890 W. Kennedy Blvd., Suite 300  
Tampa, FL 33609

El Paso Fire Department (TX)  
8600 Montana AVE  
El Paso, TX 79925-1214

By:  Brandi Howe

By:  \_\_\_\_\_

Printed Name: Brandi Howe

Printed Name: Claudia A. Garcia

Title: Senior Director of Renewal Management

Title: Interim Purchasing & Strategic Sourcing Director

Date: 8/19/2022

Date: 8/23/2022



Legislation Text

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File #: 22-1091, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

Human Resources, Araceli Guerra, (915) 212-1401

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to Strategic Plan is subsection 6.2 - Implement employee benefits and services that promote financial security.

**Award Summary:**

Discussion and action on the award of Solicitation No. 2022-0038R 457(b) Deferred Compensation Plan Administrator and 401(a) Profit Sharing Plan Administrator to Empower Retirement, LLC for an initial five (5) year term. The award is to include a two (2), two (2) year optional terms for a total of nine (9) years.

**Contract Variance:**

Not applicable, no cost to the City.

Department:	Human Resources
Award to:	Empower Retirement, LLC
	Greenwood Village, CO
Item(s):	All
Initial Term:	5 years
Option to Extend:	Two (2), two (2) years
Annual Estimated Award:	N/A
Initial Term Estimated Award:	N/A
Option Term Estimated Award:	N/A
Total Estimated Award:	N/A
Account No:	N/A
Funding Source:	Employee Voluntary Contributions Only
District(s):	All

This is a Request for Proposal, service contract.

The Purchasing & Strategic Sourcing and the Human Resources Departments recommend award as indicated

to Empower Retirement, LLC the highest ranked proposer based on evaluation factors established for this procurement. In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** NA

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Araceli Guerra, Managing Director of Internal Services, (915) 212-1401  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** 6: Set the Standard for Sound Governance and Fiscal Management.

**SUBGOAL:** 6.2 - Implement employee benefits and services that promote financial security.

**SUBJECT:**

Discussion and action on the award of Solicitation No. 2022-0038R 457(b) Deferred Compensation Plan Administrator and 401(a) Profit Sharing Plan Administrator to Empower Retirement, LLC for an initial five (5) year term. The award is to include a two (2), two (2) year optional terms for a total of nine (9) years.

**BACKGROUND / DISCUSSION:**

This contract will allow to continue to provide plans offered as a supplement to the City's defined benefit pension plan.

It is important to note that no City money is paid to this company.

**SELECTION SUMMARY:**

Solicitation was advertised on March 15, 2022 and March 22, 2022. The solicitation was posted on City website on March 15, 2022. The email (Purmail) notification was sent out on March 17, 2022. There were a total of forty-one (41) viewers online; seven (7) proposals were received; none being local suppliers.

**CONTRACT VARIANCE:**

Not applicable, no cost to the City.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

NA

**AMOUNT AND SOURCE OF FUNDING:**

NA

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES   NO

**PRIMARY DEPARTMENT:** Human Resources

**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing



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

**DEPARTMENT HEAD:**

Mary Michel for Araceli Guerra  
Araceli Guerra, Managing Director of Internal Services

**COUNCIL PROJECT FORM  
(RFP)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of **August 30, 2022**.

**STRATEGIC GOAL NO. 6: Set the Standard for Sound Governance and Fiscal Management.**

The linkage to Strategic Plan is subsection 6.2 - Implement employee benefits and services that promote financial security.

**Award Summary:**

Discussion and action on the award of Solicitation No. 2022-0038R 457(b) Deferred Compensation Plan Administrator and 401(a) Profit Sharing Plan Administrator to Empower Retirement, LLC for an initial five (5) year term. The award is to include a two (2), two (2) year optional terms for a total of nine (9) years.

**Contract Variance:**

Not applicable, no cost to the City.

Department:	Human Resources
Award to:	Empower Retirement, LLC Greenwood Village, CO
Item(s):	All
Initial Term:	5 years
Option to Extend:	Two (2), two (2) years
Annual Estimated Award:	NA
Initial Term Estimated Award:	NA
Option Term Estimated Award:	NA
Total Estimated Award:	NA
Account No.:	NA
Funding Source:	Employee Voluntary Contributions Only
District(s):	All

This is a Request for Proposal, service contract.

The Purchasing & Strategic Sourcing and the Human Resources Departments recommend award as indicated to Empower Retirement, LLC the highest ranked proposer based on evaluation factors established for this procurement. In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*

## CITY OF EL PASO RFP SCORESHEET

PROJECT: 2022-0038R 457(b) Deferred Compensation Plan Administrator and 401(a) Profit Sharing Plan Administrator

## Evaluation of Submittal

Empower Retirement,  
LLC  
Greenwood Village, COVALIC Retirement  
Services Company  
(VRSCO) dba AIG  
Retirement Services  
Houston, TXThe Lincoln National Life  
Insurance Company dba  
Lincoln Retirement  
Services Company, LLC  
Fort Wayne, INVoya Retirement  
Insurance and Annuity  
Company dba Voya  
Financial  
Hartford, CTInternational City  
Management Association  
Retirement Corporation  
dba MissionSquare  
Retirement  
Washington, DCEquitable Financial Life  
Insurance Company  
(FKA, AXA Equitable Life  
Insurance Company)  
New York, NYJNT Resource Partners,  
LP dba TCG  
Administrators  
Austin, TX

MAX POINTS

## Factor A - Plan Administration

The offeror will be evaluated based on the detailed information from questionnaire responses (1-12) to demonstrate the capacity on plan administration.

20

20.00

19.00

19.00

20.00

17.00

13.00

3.00

## Factor B - Services Offered to employees

The offeror will be evaluated based on the detailed information from questionnaire responses (13-25) to demonstrate the services offered to employees.

15

14.00

13.00

15.00

12.00

12.00

11.00

12.00

## Factor C - Investments Offered to Plan Participants

The offeror will be evaluated based on the detailed information from questionnaire responses (26-40) to demonstrate the capacity on investments offered to plan participants.

20

20.00

19.00

19.00

18.00

11.00

14.00

16.00

## Factor D - Administration Services

The offeror will be evaluated based on the detailed information from questionnaire responses (41-64) to demonstrate the capacity on administration services offered.

15

15.00

15.00

15.00

15.00

13.00

13.00

12.00

## Factor E - Cost Recovery and Financial Guarantees

The offeror will be evaluated based on the detailed information from questionnaire responses (65-73) to demonstrate the cost recovery and financial guarantees offered.

10

8.00

10.00

9.00

7.00

7.00

6.00

3.00

## Factor F - Experience – Comparable Contracts

Offeror to provide three (3) contracts comparable in scope within the past five (5) years prior to bid opening. Contract will be considered comparable in scope if they include the following elements: 457(b) Deferred Compensation Plan Administrator and 401(a) Profit Sharing Plan Administrator. Offeror is required to use the Experience – Comparable Contract Form for this factor. Contracts not comparable in scope will not be evaluated.

10

10.00

10.00

9.00

6.00

8.00

8.00

6.00

Note: The maximum points for each contract will be determined by dividing the points allocated to this factor by 3 (i.e. 10 total points ÷ 3 =3.333 points per contract).

## Factor G - References

Offeror shall provide references for three (3) contracts listed for Factor F. A contract deemed non-comparable under Factor F shall not be considered as a viable reference under Factor F and shall not be scored.

10

10.00

10.00

10.00

10.00

6.67

6.67

10.00

Note: The maximum points for each reference will be determined by dividing the points allocated to this factor by 3 (i.e. 10 total points ÷ 3 =3.333 points per reference).

## TOTAL SCORE

100

97.00

96.00

96.00

88.00

74.67

71.67

62.00

## Rank

1

2

2

3

4

5

6



**CITY OF EL PASO**  
**REQUEST FOR PROPOSAL TABULATION FORM**



**Bid Opening Date: April 27, 2022**

**Project Name: 457(b) Deferred Compensation Plan Administrator  
and 401(a) Profit Sharing Plan**

**Solicitation #: 2022-0038R**

**Department: Human Resources**

<b>BIDDER'S NAME:</b>	<b>LOCATION:</b>	<b>AMENDMENT(S) ACKNOWLEDGED:</b>
<b>Empower Retirement, LLC</b>	<b>Greenwood Village, CO</b>	<b>Yes</b>
<b>Equitable Financial Life Insurance Company (FKA. AXA Equitable Life Insurance Company)</b>	<b>New York, NY</b>	<b>Yes</b>
<b>International City Management Association Retirement Corporation dba MissionSquare Retirement</b>	<b>Washington, DC</b>	<b>Yes</b>
<b>JNT Resource Partners, LP dba TCG Administrators</b>	<b>Austin, TX</b>	<b>Yes</b>
<b>The Lincoln National Life Insurance Company dba Lincoln Retirement Services Company, LLC</b>	<b>Fort Wayne, IN</b>	<b>No</b>
<b>VALIC Retirement Services Company (VRSCO) dba AIG Retirement Services</b>	<b>Houston, TX</b>	<b>Yes</b>
<b>Voya Retirement Insurance and Annuity Company dba Voya Financial</b>	<b>Hartford, CT</b>	<b>Yes</b>
<b>RFPs SOLICITED: 27    LOCAL RFPs SOLICITED: 4    RFPs RECEIVED: 7    LOCAL RFPs RECEIVED: 0    NO RFPs: 0</b>		

**NOTE: The information contained in this RFP tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_\_\_/s/

390 e: 7/26/2022

2022-0038R 457(B) Deferred Compensation Plan Administrator and 401(A) Profit Sharing Plan

2022-0038R 457(b) Deferred Compensation Plan Administrator and 401(a) Profit Sharing Plan Administrator

PEBSCO 6130 Montana # 212 El Paso, TX 79925	Fidelity Investments P.O. Box 5421 Cincinnati, OH 45250	ING AETNA Financial Services 151 Farmington Avenue Hartford, CT 06156
Limited Principal ING 15455 Dallas Parkway Suite 1250 Addison, TX 75001	Presi Ortega, Jr. 7619 Lockheed Suite A El Paso, TX 79925	Fidelity Investments Attn: Suzanne Howard 397 Williams Street MC2E Marlboro, MA 01752
International Bank 1801 S 2 <sup>nd</sup> Street 6 <sup>th</sup> Floor McAllen, TX 78503	HUB International 201 E Main Drive Suite 800 El Paso, TX 79901	Security Benefit Attn: Jay Jasnoski One Security Benefit Place Topeka, KS 66636
Great West Life & Annuity Ins Co 18111 Von Karman Avenue Irvine, CA 92612	Ronald D Miller, RHU PO Box 13325 El Paso, TX 79913	ICMA Retirement Co Attn: Troy Kearse 777 North Capital Street NE Washington, DC 20002
VALIC 6301 Indian School Road Suite 670 Attn: Nila McNally Albuquerque, NM 87110	ICMA Retirement Co 12238 E Arabian Park Dr Scottsdale, AZ 85259	ING Attn: Dax Rizo 15455 Dallas Parkway, Suite 1250 Dallas, TX 75001
ICMA Retirement Co Attn: Jerry Higgins 7711 South Greenwood Ct Littleton, CO 80120	JP Morgan Retirement Plan Services 8300 Ward Parkway Kansas City, MO 64114-3317	Charles Swab 4150 Kinross Lakes Parkway Richfield, OH 44286
T. Rowe Price Group PO Box 89000 Baltimore, MD 21289	Wells Fargo 100 Heritage Reserve Menomonee Falls, WI 53051	Principal Financial Group 2603 Augusta Suite 1350 Houston, TX 77057
Prudential Retirement Insurance Co Attn: Julie Klassen 3333 Michelson, Suite 820A Irvine, CA 92612	Mullen Pension Benefits Group 12758 Cimarron Path San Antonio, TX 78249	Prudential Retirement 9837 Archer Lane Dublin, OH 43017
Ameritas Life Insurance Corp 5900 O Street Lincoln, NE 68510	Hartford Life Insurance Company 200 Hopmeadow Street Simsbury, CT 06089-9793	Nationwide Retirement Solutions Attn: Matt Riebol 5900 Parkdwood Place Dublin, OH 43016



Legislation Text

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File #: 22-1114, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

Human Resources, Araceli Guerra, (915) 212-1401

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to Strategic Plan is subsection 6.2 - Implement employee benefits and services that promote financial security.

**Award Summary:**

Discussion and action on the request that the Director of Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order to USI Southwest, Inc., referencing Contract 2019-1063R Property Insurance. This will be a change order to increase the contract by \$682,201.40 for a total amount not to exceed \$3,411,006.98 for the initial term. The change order will cover expenses for property insurance annual premium increases from August 30, 2020 to July 1, 2023.

**Contract Variance:**

No contract variance

Department:	Human Resources
Award to:	USI Southwest, Inc.
	El Paso, TX
Total Estimated Amount:	\$682,201.40
Account No.:	999-9999-1000-544090
Funding Source	Non-departmental - Property Insurance Expense
District(s):	All

This is a Request for Proposal, services contract.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Araceli Guerra, Managing Director of Internal Services, (915) 212-1401  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** 6: Set the Standard for Sound Governance and Fiscal Management.

**SUBGOAL:** 6.2 - Implement employee benefits and services that promote financial security.

**SUBJECT:**

Discussion and action on the request that the Director of Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order to USI Southwest, Inc., referencing Contract 2019-1063R Property Insurance. This will be a change order to increase the contract by \$682,201.40 for a total amount not to exceed \$3,411,006.98 for the initial term. The change order will cover expenses for property insurance annual premium increases from August 30, 2020 to July 1, 2023.

**BACKGROUND / DISCUSSION:**

This contract allows the City of El Paso to obtain property insurance for City of El Paso assets.

**SELECTION SUMMARY:**

NA

**CONTRACT VARIANCE:**

NA

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

On January 21, 2020 City Council approved the award of contract 2019-1063R to vendor for a three (3) year term and two (2) additional terms of two (2) years each to extend the contract for at total amount of \$6,367,213.02.

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$682,201.40

Funding Source: Non-departmental – Property Insurance Expense

Account: 999-9999-1000-544090

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES \_\_\_ NO

**PRIMARY DEPARTMENT:** Human Resources

**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

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

**DEPARTMENT HEAD:**

*Mary Michel* for Araceli Guerra

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Araceli Guerra, Managing Director of Internal Services



**COUNCIL PROJECT FORM  
(CHANGE ORDER)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of **August 30, 2022.**

**STRATEGIC GOAL NO. 6: Set the Standard for Sound Governance and Fiscal Management.**

The linkage to Strategic Plan is subsection 6.2 - Implement employee benefits and services that promote financial security.

**Award Summary:**

Discussion and action on the request that the Director of Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order to USI Southwest, Inc., referencing Contract 2019-1063R Property Insurance. This will be a change order to increase the contract by \$682,201.40 for a total amount not to exceed \$3,411,006.98 for the initial term. The change order will cover expenses for property insurance annual premium increases from August 30, 2020 to July 1, 2023.

**Contract Variance:**

No contract variance

Department:	Human Resources
Award to:	USI Southwest, Inc. El Paso, TX
Total Estimated Amount:	\$682,201.40
Account No.:	999-9999-1000-544090
Funding Source	Non-departmental – Property Insurance Expense
District(s):	All

This is a Request for Proposal, services contract.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*



Legislation Text

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File #: 22-1116, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

City Manager's Office, Robert Cortinas, (915) 212-1062

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to Strategic Plan is subsection 6.6 - Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.

**Award Summary:**

Discussion and action that the City Manager be authorized to sign an agreement for Contract No. 2022-0411R Professional Municipal Advisory Services between the City and Hilltop Securities, Inc., for a contract term of three (3) years beginning on September 1, 2022 and ending on, August 31, 2025, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee; and whereas, the fees due to Hilltop Securities, Inc., for municipal advisory services will not exceed the fee schedule of a base fee of \$25,000.00 plus \$1.30 per \$1,000.00 for the first \$75,000,000.00 of bonds issued, plus \$1.15 per \$1,000.00 thereafter. The City will also pay for reimbursable expenses and for additional services for the completion of debt issuance.

This is a Request for Qualifications, service contract.

The Purchasing & Strategic Sourcing Department and City Manager's Office recommend award as indicated to Hilltop Securities, Inc., the highest ranked proposer based on evaluation factors established for this procurement.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** NA

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Robert Cortinas, Chief Financial Officer/Deputy City Manager, (915) 212-1062  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** 6: Set the Standard for Sound Governance and Fiscal Management.

**SUBGOAL:** 6.6 - Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.

**SUBJECT:**

Discussion and action that the City Manager be authorized to sign an agreement for Contract No. 2022-0411R Professional Municipal Advisory Services between the City and Hilltop Securities, Inc., for a contract term of three (3) years beginning on September 1, 2022 and ending on, August 31, 2025, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee; and whereas, the fees due to Hilltop Securities, Inc., for municipal advisory services will not exceed the fee schedule of a base fee of \$25,000.00 plus \$1.30 per \$1,000.00 for the first \$75,000,000.00 of bonds issued, plus \$1.15 per \$1,000.00 thereafter. The City will also pay for reimbursable expenses and for additional services for the completion of debt issuance.

**BACKGROUND / DISCUSSION:**

The Deputy City Manager with the assistance of the Comptroller and Director of the Office of Management and Budget, manages the analysis, accounting and projection of debt issuances and related issues. The Municipal Advisor will coordinate with the Deputy City Manager to ensure that relevant issues are discussed and analysis prepared is reflective of City needs. Due to inherent conflicts of interest, the firm selected as Municipal Advisor will not be allowed to resign in order to serve as underwriter for a proposed transaction.

**SELECTION SUMMARY:**

Solicitation was advertised on February 8, 2022 and February 15, 2022. The solicitation was posted on City website on February 8, 2022. The email (Purmail) notification was sent out on February 10, 2022. There was a total of thirty-five (35) viewers online; two (2) proposals were received; none being local suppliers. An inadequate competition survey was conducted.

**CONTRACT VARIANCE:**

NA.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

NA

**AMOUNT AND SOURCE OF FUNDING:**

Costs are paid for out of bond proceeds.

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES   NO

**PRIMARY DEPARTMENT:** City Manager’s Office  
**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

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

**DEPARTMENT HEAD:**

*Robert Cortinas*

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Robert Cortinas, Chief Financial Officer/Deputy City Manager

**COUNCIL PROJECT FORM  
(RFQ)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of **August 30, 2022**.

**STRATEGIC GOAL NO. 6: Set the Standard for Sound Governance and Fiscal Management.**

The linkage to Strategic Plan is subsection 6.6 - Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.

**Award Summary:**

Discussion and action that the City Manager be authorized to sign an agreement for Contract No. 2022-0411R Professional Municipal Advisory Services between the City and Hilltop Securities, Inc., for a contract term of three (3) years beginning on September 1, 2022 and ending on, August 31, 2025, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee; and whereas, the fees due to Hilltop Securities, Inc., for municipal advisory services will not exceed the fee schedule of a base fee of \$25,000.00 plus \$1.30 per \$1,000.00 for the first \$75,000,000.00 of bonds issued, plus \$1.15 per \$1,000.00 thereafter. The City will also pay for reimbursable expenses and for additional services for the completion of debt issuance.

This is a Request for Qualifications, service contract.

The Purchasing & Strategic Sourcing Department and City Manager's Office recommend award as indicated to Hilltop Securities, Inc., the highest ranked proposer based on evaluation factors established for this procurement.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*

## CITY OF EL PASO RFQ SCORESHEET

PROJECT: 2022-0411R Professional Municipal Advisory Services

*Evaluation of Submittal*

MAX POINTS

Hilltop Securities, Inc.

Estrada Hijonosa &  
Company, Inc.

## Factor A - Firm's Experience in Municipal Advisory Services

35

32.67

30.33

## Factor B - Financing Techniques

20

19.00

18.00

## Factor C - Experience – Comparable Contracts

15

14.67

12.00

## Factor D - References

10

6.67

9.33

## Factor E - Local Knowledge and Support

15

15.00

10.00

## Factor F - Trading Desk or Other Source of Market Information

5

5.00

5.00

## TOTAL SCORE

100

86.33

75.33

Rank

1

2



**CITY OF EL PASO**  
**REQUEST FOR QUALIFICATIONS TABULATION FORM**



**Bid Opening Date: March 9, 2021**

**Solicitation #: 2022-0411R**

**Project Name: Professional Municipal Advisory Services**

**Department: City Manager's Office**

BIDDER'S NAME:	LOCATION:	AMENDMENT(S) ACKNOWLEDGED:
Estrada Hinojosa & Company, Inc.	Dallas, TX	NA
Hilltop Securities, Inc.	Dallas, TX	NA
RFQs SOLICITED: 20    LOCAL RFQs SOLICITED: 2    RFQs RECEIVED: 2    LOCAL RFQs RECEIVED: 0    NO RFQs: 0		

**NOTE: The information contained in this RFQ tabulation is for information only and does not constitute actual award/execution of contract.**

Approved:   /s/  

Date:   3/16/2022  

2022-0411R Professional Municipal Advisory Services

2022-0411R Professional Municipal Advisory Services  
Bidders List

ESTRADA HINOJOSA & COMPANY, INC.  
ATTN: NOE HINOJOSA, JR.  
1717 MAIN ST. , STE 4700  
LOCKBOX 47  
DALLAS, TX 75201

GEORGE K. BAUM & COMPANY  
ATTN: GARY P. MACHAK,  
8115 PRESTON RD. STE. 650  
DALLAS, TX 75225

RBC CAPITAL MARKETS  
ATTN: MATTHEW BOLES, RON MORRISON  
200 CRESCENT CT. STE. 1575  
DALLAS, TX 75201

FIRST SOUTHWEST COMPANY  
ATTN: MARIA F. URBINA  
221 N. KANSAS STE. 600  
EL PASO, TX 79901

BOSC, INC.  
5 HOUSTON CENTER  
1401 MCKINNEY ST. STE. 1000  
HOUSTON, TX 77010

HUTCHINSON SHOCKEY ERLEY & CO  
ATTN: MARK C. NITCHOLAS, TODD H.  
HOLDER  
4545 POST OAK PLATE, SUITE 215  
HOUSTON, TX 77027

PUBLIC FINANCIAL MANAGEMENT, INC.  
ATTN: JULIE GARCIA SEEBACH  
221 WEST 6<sup>TH</sup> STREET SUITE 1900  
AUSTIN, TX 78701

SAMUEL A. RAMIREZ & CO., INC.  
ATTN: LORRAINE (LORRY) PALACIOS  
100 CONGRESS AVENUE, STITE 2000  
AUSTIN, TX 78701

DELOITTE FINANCIAL  
ADVISORY SERVICES LLP  
400 W 15<sup>TH</sup> ST. SUITE 1700  
AUSTIN, TX 78701

ESTRADA HINOJOSA CO.  
1717 MAIN STREET LB 47  
SUITE 4760  
DALLAS, TX 75201

FIRST SOUTHWEST COMPANY  
325 NORTH ST. PAUL STREET  
SUITE 800  
DALLAS, TX 75201

WELLS FARGO  
INVESTMENTS  
1340 GEORGE DIETER DRIVE  
EL PASO, TX 79936

RAYMOND JAMES & ASSOCIATES, INC.  
ATTN: RAYMOND JAMES  
745 EAST MULBERRY AVENUE  
TRINITY PLAZA  
SAN ANTONIO, TX 78212

GEORGE K. BAUM & COMPANY  
6501 AMERICAS PARKWAY NE,  
SUITE 360  
ALBUQUERQUE, NM 87110

BKD, LLP  
14241 DALLAS PARKWAY STE 1100  
DALLAS, TX 75254

DELOITTE & TOUCHE  
400 WEST 15TH STREET  
SUITE 1700  
AUSTIN, TX 78701

JPMORGAN CHASE BANK NA  
221 WEST SIXTH STREET, 2<sup>ND</sup> FLOOR  
TX3-8211  
AUSTIN, TX 78701

BLEY INVESTMENT GROUP, INC.  
4200 S. HULEN ST. #519  
FORT WORTH, TX 76109

GARZA/GONZALEZ & ASSOCIATES  
207 ARDEN GROVE  
SAN ANTONIO, TX 78215

ERNEST R. GARZA AND COMPANY, P.C.  
10201 LEOPARD ST.  
CORPUS CHRISTI, TX 78410



## RESOLUTION

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

**THAT**, the City Manager be authorized to sign an agreement for Contract No. 2022-0411R Professional Municipal Advisory Services between the City and Hilltop Securities, Inc., for a contract term of three (3) years beginning on September 1, 2022 and ending on, August 31, 2025, with an option to extend the term for an additional two, one-year options to extend to be exercised by the City Manager or designee; and

**WHEREAS**, the fees due to Hilltop Securities, Inc., for municipal advisory services will not exceed the fee schedule of a base fee of \$25,000.00 plus \$1.30 per \$1,000.00 for the first \$75,000,000.00 of bonds issued, plus \$1.15 per \$1,000.00 thereafter. The City will also pay for reimbursable expenses and for additional services for the completion of debt issuance

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

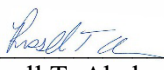
### THE CITY OF EL PASO:

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


### ATTEST:

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

### APPROVED AS TO FORM:

  
\_\_\_\_\_  
Russell T. Abeln  
Assistant City Attorney

### APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Claudia Garcia, Interim Director  
Purchasing and Strategic Sourcing

STATE OF TEXAS                    )  
  )  
  )  
  )  
COUNTY OF EL PASO            )

FINANCIAL ADVISORY SERVICES AGREEMENT  
FOR HILLTOP SECURITIES, INC.

This financial advisory services agreement (this "**Agreement**") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022 (the "**Effective Date**") by and between the City of El Paso, a home rule municipal corporation (the "**City**"), and Hilltop Securities, Inc., a Texas Corporation (the "**Company**").

## R E C I T A L S

**WHEREAS**, the City desires to engage the Company to perform financial advisory services related to the authorization and issuance of debt instruments or other securities and debt management planning services; and

**WHEREAS**, the Company possesses the credentials, experience, and expertise to perform said financial advisor services for the City.

## **A G R E E M E N T**

**NOW, THEREFORE**, in consideration of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**SECTION I. TERM.** This Agreement commences as of September 1, 2022 and remains in effect thereafter through August 31, 2023.

**SECTION 11. SCOPE OF SERVICES.** The Company hereby agrees to perform the professional financial advisory services in accordance with the City's Request for Qualifications Solicitation No. 2022-0411R (the "***Solicitation***") attached hereto as ***Exhibit A*** and incorporated herein by reference and that certain Proposal to provide Financial Advisory Services RFQ 2022-0411R submitted to the City by the Company in response to the Solicitation, attached hereto as ***Exhibit B*** and incorporated herein by reference. The scope of services included is the Solicitation and Proposal shall be referred to collectively as "***Advisory Services***,"

**SECTION III. COMPENSATION AND METHOD OF PAYMENT.** The Company shall be paid in accordance with the modified proposal terms set forth in *Exhibit C* which is attached hereto and incorporated herein by reference. The Company hereby agrees that at no time will the Company make a claim against the City for more than the rates provided under the terms of this Agreement.

**SECTION IV. ALTERNATE/ADDITIONAL SERVICES.** Should alternate or additional services outside the scope set for in Section II be requested of the Company by the City, said alternate or additional services shall automatically become a part of this Agreement upon acceptance and funding by the City and acceptance by the Company. It is understood and agreed that the City will not be liable for any cost overrun on this Agreement without its prior written approval. Said approval must be obtained prior to the Company commencing alternate or additional services that will result in the cost overrun.

**SECTION V. LOCATION OF PERFORMANCE.** The Company shall perform the Advisory Services in the city and county of El Paso, Texas or' such other place(s) as may be necessary to fulfill the terms of this Agreement.

**SECTION VI. REPRESENTATIONS OF THE COMPANY.** The Company represents, warrants, and agrees as follows:

- A. It will comply with all applicable federal, state and local governmental laws, rules, regulations and all provisions of the City of El Paso Charter and the El Paso City Code, now existing or as may be amended, in the performance of its duties under this Agreement
- B. It shall obtain and pay for all licenses, permits and certificates required by any applicable statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the conduct of its operations hereunder. The Company warrants that it is duly authorized and licensed to perform its duties hereunder in each jurisdiction in which it will act. It further warrants that its employees, agents and subcontractors shall maintain all required profession licenses during the term of this Agreement. If the Company receives notice from a licensing authority of a suspension or revocation of a license of the Company's employee(s), agent(s) or subcontractor(s), the Company shall immediately remove such employee, agent or subcontractor from performing any further services under this Agreement until such license is reinstated and in good standing. If the Company fails to maintain such licenses or fails to remove any employee, agent or subcontractor who performs services under this Agreement whose license has expired or been revoked or suspended, the City shall be entitled, in its sole discretion, to immediately terminate this Agreement upon written notice to the Company.
- C. It warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Company for the purpose of securing business. For breach or violation of this warranty, the City shall have the right in addition to any other right or rights to cancel this Agreement without liability and to deduct from the Agreement price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

**SECTION VII. INDEPENDENT CONTRACTOR RELATIONSHIP.** Nothing herein shall

be construed as creating a relationship of employer and employee between the parties hereto. The City shall not be subject to any obligations or liabilities of the Company incurred in the performance of this

Agreement unless otherwise herein authorized. The City will provide no fringe benefits to the Company or its employees.

**SECTION VIII. CONFIDENTIAL WORK.** The Company recognizes that all materials to be prepared hereunder and all data received by the Company shall be kept in strictest confidence. The Company shall not divulge such confidential information except as approved in writing by the City or as otherwise required by law.

The Company has or shall establish a method to secure the confidentiality of records or information that the Company may have access to in accordance with the applicable federal, state, and local laws and regulations. This provision shall not be construed as limiting the City's or its authorized representatives, right of access to records or other information under this Agreement.

If the Company receives inquiries regarding documents within its possession pursuant to this Agreement, the Company shall immediately forward such request to the City Attorney's office for disposition.

**SECTION IX. INSPECTIONS & AUDITS.** The City shall have the right to perform, or cause to be performed: (1) audits of the books and records of the Company; and (2) inspections of all places where work is undertaken in connection with this Agreement. The Company shall be required to keep such books and records available for such purpose for at least five (5) years after its performance under this Agreement ceases. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.

**SECTION X. OWNERSHIP.** All files generated by Company as a result of its activity under this Agreement shall remain at all times the property of the City. The data stored in the computer database shall also remain the property of the City.

**SECTION XI. INSURANCE REQUIREMENTS.** With no intent to limit Company's liability or the indemnification provisions set forth hereinafter, the Company shall provide and maintain the following insurance in full force and effect at all times during the term of this Agreement and any extensions thereto. Such insurance is described as follows:

- A. Risks and Limits of Liability. The insurance, at a minimum, must include the following coverage and limits of liability:

COVERAGE

Worker's Compensation and  
Employer's Liability

LIMIT OF LIABILITY

Statutory for Workers' Compensation  
Bodily Injury by Accident  
\$500,000 (each accident)  
Bodily Injury by Disease  
\$250,000 (policy limit)  
Bodily Injury by Disease  
\$250,000 (each employee)

Comprehensive General: Including Broad Form Coverage, Contractual Liability Bodily and Personal Injury	Bodily Injury and Property Damage, combined limits of \$1,000,000 each occurrence and \$2,000,000 aggregate
Excess Liability	Bodily Injury and Property Damage, combined limits of \$1,000,000 each occurrence and \$2,000,000 aggregate
Automobile Liability Insurance (for automobiles used by the Company in the course of its performance under this Agreement including Employer's Non-ownership and Hired Auto Coverage)	\$1,000,000 combined single limit per occurrence
Professional Liability Coverage	\$1,000,000 per occurrence \$2,000,000 aggregate

- B. Form of Policies. The insurance may be in one or more policies of insurance, the form of which must be approved by the City's Risk Manager.
- C. Issuers of Policies. The issuer of any policy must have a certificate of authority to transact insurance business in the State of Texas. Each issuer must be responsible, reputable, and have financial capability consistent with the risks covered. Each issuer shall be subject to approval by the City's Risk Manager in his sole discretion as to conformance with these requirements.
- D. Insured Parties. Each policy, except those for Workers' Compensation, Employer's Liability and Professional Liability, must name the City (and its elected and appointed officials, officers, agents and employees) as Additional Insured parties on the original policy and all renewals or replacements during the term of this Agreement.
- E. Deductibles. A policy may contain deductible amounts only if the City's Risk Manager approves the amount and scope of the deductible. The Company shall assume and bear any claims or losses to the extent of such deductible amount and waives any claim it may ever have for the same against the City, its officers, agents or employees.

Cancellation. Each policy must expressly state that it may not be canceled or non-renewed unless thirty (30) days advance notice of cancellation or intent not to renew is given in writing to the City's Purchasing Director by the insurance company. The Company shall give written notice to the City's Purchasing Director within five (5) days of the date upon which total claims by any party against the Company reduce the aggregate amount of coverage below the amounts required by this Agreement.

- F. Material Change in Policy(ies). Prior to any material change in any policy required herein, the City will be given sixty (60) days advance written notice by registered mail. Further, the City will be immediately notified of any reduction or possible reduction in aggregate limits of any such policy where such reduction, when added to any previous reductions, would exceed twenty-five percent (25%) of the aggregate limits.
- G. Subrogation. Each policy must contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the City, its elected and appointed officials, officers, agents or employees.
- H. Endorsement of Primary Insurance. Each policy must contain an endorsement that such policy is primary insurance to any other insurance available to the Additional Insured with respect to claims arising hereunder and that the insurance applies separately to each insured.
- I. Liability for Premium. If any of the policies referred to above do not have a flat premium rate and such premium has not been paid in full, such policy must have a rider or other appropriate certificate of waiver sufficient to establish that the issuer is entitled to look only to the Company for any further premium payment and has no right to recover any premiums from the City.
- J. Subcontractors. The Company shall require any and all subcontractors performing work under this Agreement to carry insurance naming the City as an Additional Insured and meeting all of the above requirements.
- K. Delivery of Policies. The originals of all policies referred to above, or copies thereof certified by the agent or attorney-in-fact issuing them together with written proof that the premiums have been paid, shall be deposited by the Company with the City's Purchasing Director prior to beginning work under this Agreement, and thereafter before the beginning of each year of the term of this Agreement. Notices and Certificates required by this clause shall be provided to:

City of El Paso  
Purchasing & Strategic Sourcing Department  
Attn: Purchasing Director  
300 N. Campbell  
El Paso, TX 79901

Notwithstanding the termination notice provisions in this Agreement, the failure of the Company to provide the City's Purchasing Director with the above proof of insurance prior to beginning work and thereafter prior to the beginning of each year of the term of this Agreement, shall constitute a default on the part of the Company entitling the City, upon three (3) days written notice to the Company to terminate this Agreement. This default provision shall also apply to the proof of insurance requirements under circumstances where a policy is canceled or expires during a given year of the Agreement. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that the Company, throughout the term of this Agreement, continuously and without interruption, maintain in force the required insurance coverage set forth above.

Failure of the Company to comply with this requirement shall constitute a default of the Company allowing the City, at its option, to terminate this Agreement.

**SECTION XII. GRATUITIES.** The City may, by written notice to the Company, cancel this Agreement without liability to the Company if it is determined by the City that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Company, or any agent or representative of the Company, to any officer or employee of the City with a view toward securing a Agreement or securing favorable treatment with respect to the awarding or amending, or the making **or** any determinations with respect to the performing of such a contract. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Company in providing such gratuities.

**SECTION XIII. INDEMNIFICATION.** The Company or its insurer shall indemnify, hold harmless, and defend the City, its elected officials, agents, employees, officers, directors and representatives of the City, individually or collective, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death of property damage, made upon the City directly arising out of, resulting from or related to the Company's activities under this Agreement for Third Party Claims Administration and Medical Cost Containment, including any act or omission by the Company, its agents, employees or subcontractors while in the exercise of performance of the rights or duties under this Agreement, all, without however, waiving and governmental immunity available to the City. The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any person or entity. Without modifying the conditions of preserving, asserting, or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to the Company every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. In addition, the Company shall promptly advise the City in writing of any claim or demand against the City or the Company known to the Company related to or arising out of the Company's activities under this Agreement. the Company will: 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages;

2) negotiate or cause to be negotiated the claim as the Company may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. The Company will pay all judgments finally establishing liability of the City in actions defended by the Company pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by the Company, and premiums on any appeal bonds. The City, at its election will have the right to participate in any such negotiations or legal proceedings to the extent of its interest without relieving Company of any of its obligations under this paragraph. The City will not be responsible for any loss of or damage to the Company's property from any cause.

**SECTION XIV. SUBCONTRACTOR'S INDEMNITY.** The Company shall require all of its subcontractors to include in their subcontracts indemnity in favor of the City in substantially the same form as *Section XIII*.

**SECTION XV. DISPUTE RESOLUTION.** The parties hereto agree that reasonable efforts will be made to aid and assist the other in accomplishing the objectives of this Agreement. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or any breach thereof, the parties shall use their best efforts to meet regularly and resolve the dispute, claim, question, or disagreement. To this effect, the parties hereby agree to consult and negotiate with each other in good faith. The parties further agree that should their efforts to resolve a dispute, claim, questions, or disagreement arising from this Agreement fail, that before either party files suit against the other to enforce, or otherwise relating to, the terms of this Agreement, it shall notify the other party of its intent to sue. Upon delivery and receipt of such notice, the parties agree to submit the matter to be litigated to mediation before a mutually-agreed upon mediator and to diligently pursue a mediated settlement until such time as the parties mutually agree to terminate such mediation or the mediator declares an impasse. No lawsuit under this Agreement by one party against the other may be filed until mediation of the issue has ended in accordance with the terms hereof.

**SECTION XVI. TERMINATION OF AGREEMENT.** This Agreement may be terminated under any one of the following circumstances:

- A. **TERMINATION FOR CONVENIENCE:** This Agreement may be terminated by the City upon written notice, provided such notice specifies an effective date for cancellation of not less than thirty (30) calendar days from the date such notice is received. The Company will be paid its costs, including the contract close out costs, and profit on work performed up to the time of termination. The Company will promptly submit its termination claim to the City to be paid the Company.
- B. **TERMINATION FOR CAUSE:** Either party may terminate its performance under this Agreement in the event of default by the other party and a failure by that party to cure such default after receiving notice thereof, all as provided in this Section. Default shall occur if a party fails to observe or perform any of its duties under this Agreement. Should such a default occur, the injured party may deliver a written notice to the defaulting party describing such default and the proposed date of termination. Such proposed date of termination may not be sooner than the 30<sup>th</sup> day following receipt of the notice. The injured party, at its sole option, may extend the proposed date of termination to a later date. If prior to the proposed date of termination, the defaulting party cures such default, then the proposed termination shall be ineffective. If the defaulting party fails to cure such default prior to the proposed date of termination, then the injured party may terminate its performance under this Agreement as of such date.
- C. **EFFECTS OF TERMINATION:** All duties and obligations of the City and the COMPANY shall cease upon termination or expiration of this Agreement, except that:
  - 1. All files are property of the City and at the City's request will be delivered at no cost to the City or its designated recipient at the effective date of cancellation. Any City funds held in any escrow account(s) shall be returned to the City within thirty (30) calendar days after the effective date of termination or expiration.



2. The Company shall release and make available to the City all records owned by the City, including all supporting documentation for the claims data contained in the computer database, and the database itself, which the Company shall download to one or more ASCII formatted tape(s), to be supplied to the City and shall cooperate fully to effect an orderly transfer of services and claim files.
3. All provisions of this Agreement that expressly or impliedly contemplate or require payment or performance after the expiration or termination of this Agreement shall survive such expiration or termination. Any unpaid obligation due and owing, by either party, as of the date of termination, shall continue to be due and payable.
4. Upon termination or expiration of this Agreement, the City shall have option to:
  - a) Assume responsibility of all claims pending as of the effective date of the termination; or
  - b) Require the Company to continue administering all pending claims as provided herein at the compensation provided in this Agreement. If the City assumes responsibility for all claims, the Company agrees to do all things necessary to transfer administration of all claims to the City.

**SECTION XVII. RIGHT TO ASSURANCE.** Whenever one party to this Agreement in good faith has reason to question the other party's intent to perform, it may demand that the other party give written assurance of its intent to perform. In the event that a demand is made and no assurance is given within five (5) calendar days, the demanding party may treat this failure as an anticipatory repudiation of the Agreement.

**SECTION XVIII. ASSIGNMENT.** Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party hereto. Any attempted assignment or delegation by either party shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

**SECTION XIX. SUBCONTRACTORS.** The Company may subcontract with other competent entities to provide services required to be performed under this Agreement. Any work or services approved for subcontracting hereunder, however, shall be contracted only by written Agreement and, specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontracts with this Agreement shall be the Company's responsibility. The Company shall submit a list, identifying the subcontractors who will perform services under this Agreement, within ten (10) days of the Effective Date of this Agreement. All subcontractors, however, must be accepted and approved by the City in writing, and such consent shall not be unreasonably withheld.

Despite the City's approval of a subcontract or subcontractor, the City shall in no event be obligated to any third party, including any subcontract of the Company, for performance of work or services.

**SECTION XX. SURVIVAL.** The Company shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to the Indemnification provisions hereof.

**SECTION XXI. AMENDMENT & WAIVER.** This Agreement may be amended by the parties at any time, by mutual consent of the parties. Unless otherwise provided herein, this Agreement may be amended only by written instrument duly executed on behalf of the City and the Company. No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

**SECTION XXII. APPLICABLE LAW & VENUE.** This Agreement shall be governed by the laws of the State of Texas along with any applicable provisions of Federal law, the City Charter, or any ordinance or resolution of the City. Both parties agree that venue for any litigation arising from this Agreement shall lie in El Paso, El Paso County, Texas.

**SECTION XXIII. LEGAL CONSTRUCTION.** Every provision of this Agreement is severable, and if any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement. Where the context of the Agreement require, the singular shall include the plural and the masculine gender shall include feminine. Any reference to the City Manager in this Agreement shall mean the City of El Paso or her designee.

**SECTION XXIV. NOTICES.** Any notices required under this Agreement shall be sufficient if sent by Certified Mail, Return Receipt Requested, postage prepaid, to the City and the Company at the following addresses:

**THE CITY:**

City of El Paso  
Attn: City Manager  
300 N. Campbell  
El Paso, TX 79901

With copy to:

City of El Paso  
Purchasing & Strategic Sourcing Department  
Attn: Purchasing Director  
300 N. Campbell  
El Paso, TX 79901

**THE COMPANY:**

Hilltop Securities, Inc.  
Attn: Vickie Hall  
717 N. Harwood Street, Suite 3400  
Dallas, TX 75201

Any party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to the other in the manner set forth in this paragraph.

**SECTION XXV. ENTIRE AGREEMENT.** This Agreement and attached Exhibits constitute the entire Agreement between the parties hereto. There exists no other written or oral understanding, Agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this Agreement confers no rights on any person(s) or business entity(s) that is not a party hereto. This Agreement shall not be construed against or unfavorably to any party because of such party's involvement in the preparation or drafting of this Agreement.

*[Signature page to follow]*

**STATE OF TEXAS            )**  
**)**  
**)**  
**COUNTY OF EL PASO        )**

**FINANCIAL           ADVISORY           SERVICES**  
**AGREEMENT FOR HILLTOP SECURITIES, INC**

(Signature page)

**IN WITNESS WHEREOF**, the parties have hereunto set their hands this \_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF EL PASO:**

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

**ATTEST:**


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

Hilltop Securities, Inc.


\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Title:

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Russell T. Abeln  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Claudia Garcia, Interim Director  
Purchasing and Strategic Sourcing

## EXHIBIT "A"

# REQUEST FOR QUALIFICATIONS

ISSUED BY

## THE CITY OF EL PASO

PURCHASING & STRATEGIC SOURCING DEPARTMENT

**SOLICITATION NO: 2022-0411R**

**DATE ISSUED: February 8, 2022**

**TITLE: Professional Municipal Advisory Services  
Deputy City Manager - Finance & Health Services**

An original, signed, sealed, OFFER to furnish the goods and/or services set forth below will be received at the place indicated below, until:  
**2:00 PM, local time, WEDNESDAY, MARCH 9, 2022**

NOTICE When used in Request for Proposals, the terms 'Offer' and 'Proposal' and 'Offeror' and 'Vendor' are interchangeable.

**ADDRESS OFFERS TO:  
PURCHASING DIRECTOR  
PURCHASING & STRATEGIC SOURCING DEPARTMENT  
CITY OF EL PASO**

**MAIL TO:**

**CITY OF EL PASO  
PURCHASING & STRATEGIC SOURCING DEPARTMENT  
300 N. CAMPBELL, 1<sup>ST</sup> FLOOR  
EL PASO, TX 79901-1153**

OR

**HAND DELIVER TO:**

**CITY OF EL PASO  
PURCHASING & STRATEGIC SOURCING DEPARTMENT  
300 N. CAMPBELL, 1<sup>ST</sup> FLOOR  
EL PASO, TX 79901**

FOR ADDITIONAL INFORMATION CONCERNING THIS SOLICITATION, CONTACT:  
Paula Salas, Purchasing Agent  
Telephone: [915] 212-1192 Email: salaspx@elpasotexas.gov

### EXPIRATION OF OFFERS

The Offeror agrees, to furnish all items [supplies or services] at the prices offered, and delivered at the designated point or points, within the time set forth below, if this offer is accepted within ONE HUNDRED TWENTY [120] consecutive days from the date set for the receipt of offers. All offers shall expire on the 120th day after the offers are open unless the City of El Paso requests an extension of the offers in writing and the offeror agrees to extend in writing.

### AMENDMENTS TO SOLICITATION

Receipt of all numbered amendments to Solicitations must be acknowledged:

<u>AMENDMENT</u>	<u>DATED</u>	<u>AMENDMENT</u>	<u>DATED</u>	<u>AMENDMENT</u>	<u>DATED</u>	<u>AMENDMENT</u>	<u>DATED</u>
A001	_____	A002	_____	A003	_____	A004	_____
A005	_____	A006	_____	A007	_____	A008	_____

### OFFER SUBMITTED BY

COMPANY NAME AS IT APPEARS ON ORGANIZATION CERTIFICATE ISSUED BY STATE IN WHICH COMPANY WAS ORGANIZED)

STREET ADDRESS

P.O. BOX NUMBER

CITY, STATE AND ZIP CODE

&

TELEPHONE NUMBER

FAX NUMBER

E-Mail address

PLEASE CHECK PREFERRED ADDRESS FOR RECEIVING SOLICITATION DOCUMENTS.

### OFFER EXECUTED BY [PLEASE PRINT]

NAME AND TITLE OF PERSON AUTHORIZED TO OBLIGATE COMPANY

SIGNATURE AND DATE OF OFFER

WITHOUT AN ORIGINAL SIGNATURE ON THIS OR OTHER DOCUMENT BINDING THE OFFEROR, THE OFFER WILL BE REJECTED

**NOTE:** AWARD OF THE CONTRACT RESULTING FROM THIS SOLICITATION WILL BE MADE TO THE SUCCESSFUL BIDDER BY AN AUTHORIZED WRITTEN NOTICE, WHICH MAY BE IN THE FORM OF A LETTER NOTICE OF AWARD OR A PURCHASE ORDER ISSUED BY THE CITY OF EL PASO. THIS IS A ONE TIME CONTRACT ☐

# MISSION

Deliver exceptional services to support a high quality of life and place for our community.

# VISION

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.

# VALUES

Integrity

Respect

Excellence

Accountability

People





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## PART 1 – GENERAL INFORMATION

### 1.1 Background Information

The intent of this document is to provide interested firms with sufficient information to enable them to prepare and submit innovative submittals for consideration to the City of El Paso Finance and Management Support team, headed by the Deputy City Manager – Support and Financial Services, hereafter referred to as “**Deputy City Manager**,” to satisfy the need for professional Municipal Advisory Services. The term of the engagement based on the awarded Request for Qualifications (RFQ) is thirty-six (36) with two (2) one (1) year options to extend. Joint proposals with other firms will not be considered for this RFQ. The City will be selecting one municipal advisor as a result of this solicitation.

The Deputy City Manager seeks the services of a nationally recognized and experienced consulting firm. This firm, hereafter referred synonymously as the “**Municipal Advisor**,” should provide Municipal Advisory Services related to the authorization and issuance of debt instruments or other securities as well as debt management planning services as requested by the Deputy City Manager. It is understood that the authorization and issuance of indebtedness in amounts and forms cannot be predetermined and that in connection with the authorization, sale, issuance and delivery of such indebtedness, this Request for Qualifications is being sought.

### 1.2 Solicitation Purpose

The Deputy City Manager with the assistance of the Comptroller and Director of the Office of Management and Budget, manages the analysis, accounting and projection of debt issuances and related issues. The Municipal Advisor will coordinate with the Deputy City Manager to ensure that relevant issues are discussed and analysis prepared is reflective of City needs. Due to inherent conflicts of interest, the firm selected as Municipal Advisor will not be allowed to resign in order to serve as underwriter for a proposed transaction.

It is the policy of the City of El Paso to develop and maintain a sound debt management program. In November 2005, the City adopted a Debt Management Policy (“Policy”) that set forth the parameters for issuing new debt as well as managing the outstanding debt portfolio, identifying the types and amounts of permissible debt, and maintaining the current bond rating in order to minimize borrowing costs and preserving access to credit. It is the intent of the City to establish the Debt Management Policy to provide guidance to staff to:

- Ensure high quality debt management decisions;
- Ensure that debt management decisions are viewed positively by rating agencies, investment community and citizenry-at-large;
- Ensure support for debt issuances both internally and externally;
- Demonstrate a commitment to long-term financial planning.

This policy has been amended since November 2005 and updated annually in accordance with the provisions of the Policy. The most up-to-date- policy can be located on the City’s website at <https://www.elpasotexas.gov/assets/Documents/CoEP/Office-of-the-Comptroller/Fiscal-Policies/Debt-Policy.pdf>

## PART 2 - NOTICES TO PROPOSERS

### 2.1 Public Disclosure Proposal Information

Offerors are cautioned that once a bid is opened, all information contained therein will be available to the PUBLIC unless the information is excepted from the requirements of Government Code Section 552.021 pertaining to Open Records.

The exception that allows the City to protect information that, if released, would give advantage to a competitor or bidder does not apply after the bidding is complete and the contract has been awarded. Trade secrets, commercial or financial

background data and privileged or confidential information may be excepted from public inspection. If any information contained in your offer qualifies for an exception because it falls into one of the categories above it should be clearly marked "CONFIDENTIAL" and the basis of your claim of confidentiality should be stated. Data so identified will be maintained as a protected record. Offerors who claim that information contained in a bid should be protected from public disclosure after the award of the contract may be asked to support such claim if the City receives an Open Records request for the information and requests a determination by the Attorney General. [Rev. 04-03-98.]

## **2.2 Proposal Net Notification**

NOTE: ANY CHANGES IN DUE DATE OR MATERIAL CHANGES FOR ANY RFQ'S/SOLICITATIONS WILL BE POSTED ON THE SOLICITATIONS PAGE OF THE CITY OF EL PASO PURCHASING DEPARTMENT'S WEBSITE: <http://legacy.elpasotexas.gov/purchasing/ep-invitations.asp>

It is the proposer's responsibility to ensure that they have all pertinent information regarding solicitations, including all amendments prior to submitting their offer. Please check the website, even after submitting a proposal, to ensure that you have all amendments as they may be posted at any time, up to and including the day of proposal opening.

**Recommendation(s) for formal awards shall be posted on the City's website the Thursday afternoons prior to the Tuesday City Council Meeting wherein the recommendation shall be presented. Vendors are responsible for monitoring the City's website for said postings and awards.**

## **2.3 Strategic Goal**

Strategic Goal: No. 6: Set the Standard for Sound Governance and Fiscal Management

### **2.3.1 Linkage to the Strategic Plan**

The linkage to the Strategic Plan is subsection 6.6 - Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.

## **2.4 Communications**

### **2.4.1 Cone of Silence/Anti Lobbying Policy**

The City's Cone of Silence/Anti Lobbying Policy was adopted to ensure a fair and competitive proposing environment by preventing communication between City officials, employees, or representatives and parties involved in the proposing process that could create an unfair advantage to any party with respect to the award of a City contract.

During the period of in which the City has issued a solicitation, including a competitive proposal, request for proposal (RFQ), request for qualifications (RFQ), highest qualified proposal (best value), competitive sealed proposals, design-build, public-private partnership, any other type of solicitation required by law, or the giving of a notice of a proposed project, which shall begin on the day that is advertised and end on the date that the notice of the award has been posted by the City Clerk for placement on the agenda, no person or registrant shall engage in any lobbying activities with City officials and employees.

For an unsolicited or competing proposal for a public-private partnership, the period in which no person or registrant shall engage in any lobbying activities with City officials and employees shall begin on the date that the City receives a notice of intent to submit an unsolicited proposal and end on the date the notice of award has been posted by the City clerk for placement on the agenda.

If contact is required with City employees, such contact will be done in accordance with procedures incorporated into the solicitation document and the City's contracting policies. Any person or entity that violates this provision

may be disqualified in accordance with Section 2.94.130 of this chapter. Furthermore, any person who knowingly or intentionally violates the provisions of this policy, with respect to the solicitation or award of a discretionary contract may be prohibited by the City council from entering into any contract with the City for a period not to exceed three years.

The Cone of Silence/Anti Lobbying Policy prohibits any communication or lobbying activities during the Cone of Silence period, by any person, including but not limited to, proposers, lobbyists or consultants of proposers, service providers or potential vendors and any the following:

1. City Staff and City Consultants, including any employee of the City of El Paso, any person retained by the City of El Paso as a Consultant on the project, or any person having participated in the development, design, or review of documents related to the project.
2. City Officials, including the Mayor, Council Representatives and their respective staff.
3. Members of the City's Selection Committee, whether City employees or outside experts appointed or selected by the City.

**The Cone of Silence/Anti Lobbying Policy does not apply to:**

1. Questions of Process and Procedure, including oral communications with the Purchasing Director or Proposal Administrator, provided the communications are strictly limited to matters of process or procedure already contained in the solicitation document. A minimum of ten days will be provided for questions during solicitation unless otherwise stated in the Solicitation Schedule of Events in the documents.
2. Pre-Proposal/Pre-Proposal Conferences, including oral communications at pre-proposal or pre-proposal conferences, oral presentations before selection committees, contract negotiations, and public presentations made to the Mayor and Council Representatives during a duly noticed public meeting.
3. Written Communications, to the Purchasing Analyst/Agent identified in the solicitation.

**2.4.2 Wage Theft – The City of El Paso Code – Chapter 3.46**

**3.46.10 Definition**

1. ***Wage Theft Adjudication*** occurs when:

Employer is criminally convicted as an employer pursuant to Section 61.019 of the Texas Labor Code for failure to pay wages; or

Injunctive relief is granted in district court under Section 61.020 of the Texas Labor Code against the employer for repeated failures to pay wages as required by Chapter 61 of the Texas Labor Code; or

A wage payment determination order becomes final under Section 61.055 or Section 61.060 of the Texas Labor Code; or

The Texas Workforce Commission assesses an administrative penalty under Section 61.053 of the Texas Labor Code against the employer for acting in bad faith in not paying wages as required by Chapter 61 of the Texas Labor Code; or

Employer is convicted for Theft of Service under Section 31.04 of the Texas Penal Code; or

Court of competent jurisdiction finds that an employer engaged in wage theft.

2. **Employee** and **employer** have the meanings by Texas Labor Code, Section 61.001.
3. **Wages** means compensation owed by an employer for labor or services rendered by an employee, whether computed on a time, task piece, commission or other basis.
4. **Wage Enforcement Coordinator** shall mean the person designated by the City Manager to receive and investigate claims of wage theft and to create, maintain a Wage Theft database.
5. **Wage Theft Complaint** means a written complaint filed with the Wage Theft Coordinator alleging any instance of wage theft by an employer.

#### **Section 3.46.020 WAGE THEFT COORDINATOR**

- A. **Appointment.** The City Manager shall designate a Wage Theft Coordinator to perform the duties identified in this Section.
- B. **Duties.** The Wage Theft Coordinator shall:
  1. Wage Theft Adjudication Database- the Wage Theft Coordinator shall create and maintain a database of employers located or operating within the City of El Paso who have a Wage Theft Adjudication record. The Wage Theft Database will be created on a “complaint basis” and populated with information provided by third parties. The Wage Theft Coordinator shall be under no obligation to investigate wage theft or to prosecute complaints.
  2. Substantiate whether a proposed party to a City Contract has a Wage Theft Adjudication record or part of the Wage Theft Adjudication Database.
  3. Receive, review, and process wage theft complaint according to the process established in Section 3.46.040.
  4. Coordinate with the Purchasing Director to ensure that the notice of the City’s Wage Theft ordinance is included in all the City’s proposal documents.
  5. Provide and present an annual report to City Council regarding the number of employers in the Wage Theft Adjudication Database and an update on the status of the enforcement of the City’s Wage Theft ordinance.

#### **Section 3.46.030 WAGE THEFT ADJUDICATION DATABASE**

- A. **Inclusion in Database.** No employer shall be included in the database until the Wage Theft Coordinator has:
  1. Confirmed that an employer has a Wage Theft Adjudication record;
  2. Provided written notice at the address provided by the complainant, or on the documents evidencing the wage theft adjudication of the inclusion of the employer in the Wage Theft Adjudication Database.
  3. Allowed the employer thirty (30) days from the date of the notice to protest the employer’s inclusion in such database and provide the Wage Theft Coordinator evidence that the employer should not be included in the Wage Theft Adjudication Database. In the case of

a wage theft judgment, the Wage Theft Coordinator shall not include the employer in the Database upon proof of full payment of outstanding wage theft adjudication judgment.

**B. Identity of Employer.** An employer operating as a business entity shall be listed by its corporate name, address and type of business organization. If the employer is an individual, the person's name, business address, type of business or occupation shall be included.

**C. Removal from Database.** An employer shall be removed from the database if:

1. A Wage Theft Adjudication has been annulled, withdrawn, overturned, rescinded or abrogated, and such fact has been confirmed by the Wage Theft Coordinator; or
2. Employer provides proof of full payment of an outstanding wage theft adjudication judgment; or
3. Five (5) years or more has elapsed since the date of the employer's most recent Wage Theft Adjudication.

### **Section 3.46.040 Wage Theft Complaints Procedure**

**A. Non- City Contracts.** If no City contract is involved, the Wage Theft Coordinator shall assist persons with wage theft complaints by referring the complaint to the Texas Workforce Commission.

**B. City Contracts.**

1. **Filing a Complaint.** A person employed in connection with a city contract who has a good faith belief that he is the victim of wage theft may file a wage theft complaint with the Wage Theft Coordinator in writing. The complaint shall contain fact including but not limited to: identity of the employer, date(s) on or during which the wages were earned and were due to be paid, the amount of the wages alleged to have been withheld or unpaid.
2. **Notification and Resolution of the Complaint.** The Wage Theft Coordinator shall notify the employer of the receipt of the wage theft complaint. Employer shall attempt to resolve the alleged issue with the affected employee by written agreement within thirty (30) days from the receipt of the City notification. Employer shall notify the Wage Theft Coordinator if the issue was resolved between the Employer and the affected employee.
3. **Texas Workforce Commission.**
  - (a) If no resolution is achieved, the complainant shall be referred to the Texas Workforce Commission ("Commission").
  - (b) The Wage Theft Coordinator shall seek to determine status of the complaint at the commission. The Wage Theft Coordinator shall place Employer in the Wage Theft Adjudication Database if it appears that the Commission has made a finding that wage theft occurred.

### **Section 3.46.050 Retaliation Prohibited**

- A. No City Contractor shall retaliate against any person who has filed a wage theft complaint pursuant to this Chapter. Retaliation means action to discharge from employment, discipline, or otherwise

- punish an employee for filing a wage theft complaint in good faith.
- B. If the Wage Theft Coordinator determines that retaliation has occurred, the Wage Theft Coordinator shall refer the matter to the City Attorney for appropriate action.

### **Section 3.46.060. Sanctions and Penalties- City Contracts**

#### **A. Existing City Agreement.**

1. In the event the City becomes aware of the fact an Employer acting under a contract which was awarded prior to the effective date of this Ordinance has been adjudicated for wage theft, the City may terminate the contract.
2. Prior to terminating the contract the City will provide Employer with thirty (30) days' notice and opportunity to provide full proof of payment of outstanding wage theft adjudication judgment.
3. The award of future City contracts after termination of an existing contract due to an Employer's wage theft adjudication shall be managed as a New City Agreement in this section.

#### **B. New City Agreement.**

1. In the event the City becomes aware an Employer with a wage theft adjudication record has submitted a proposal or proposal for City work prior to the award of a contract, the City shall deem the Employer non-responsible and refuse to enter into a City Agreement with such Employer for a period of five (5) years after the date of final adjudication.
2. Prior to deeming the Employer as non-responsible, the City will provide the Employer with thirty (30) days' notice and opportunity to provide full proof of payment of outstanding wage theft adjudication judgment.

### **2.4.3 Request for Clarification**

In order to meet the City's schedule, it is extremely important that requests for clarification or additional information be submitted in writing no later than February 23, 2022. Questions submitted after this date may not elicit a response. All proposals or requests for clarification should be sent to the following:

#### **BY E-MAIL**

Paula Salas

FAX: (915) 212-0044

Email: [salaspx@elpasotexas.gov](mailto:salaspx@elpasotexas.gov)

City of El Paso

Purchasing & Strategic Sourcing

Department 300 N. Campbell, 1<sup>ST</sup> Floor

El Paso, TX 79901-1153

Attn: Paula Salas

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**IN WRITING (MAIL OR HAND DELIVERY)**

## 2.4 Schedule of Events

The following Schedule of Events represents the City's estimate of the timetable that will be followed in connection with this solicitation:

EVENTS	DATE AND/OR TIME
Release Proposal	February 9, 2022
Non-Mandatory Pre-Proposal Meeting (Recommended to attend)	February 16, 2022 at 11:00 a.m. MST  Due to COVID-19 restrictions, pre-bid meetings will be conducted via conference call.  (915) 213-4096 - El Paso (833) 664-9267 - Toll-free Conference ID: 767 909 056#
Last Day for Offerors to Submit Written Questions	February 23, 2022
Answers provided	March 2, 2022
Due Date	March 9, 2022 at 2:00 P.M. (MST)
Bid Opening Notice	Bids will be publicly opened and read at 2:30 P.M. MST on Wednesday, March 9, 2022.  <b>Due to COVID-19 restrictions</b> , the City of El Paso, Texas will be broadcasting Bid Openings Live at <a href="https://www.elpasotexas.gov/purchasing">https://www.elpasotexas.gov/purchasing</a>
Evaluations	March, 2022
Contract Award Date	April, 2022

The City reserves the right, at its sole discretion, to adjust this Schedule of Events as it deems necessary. If necessary, the City will communicate adjustments to any event in the Schedule of Events in the form of an amendment. Amendment to this RFQ will only be issued and posted on the City's website at: <http://legacy.elpasotexas.gov/purchasing/ep-invitations.asp>

## 2.5 Contract Term (Initial and Option Terms)

The successful Respondent(s) shall complete all work hereunder within the terms of the contract. The initial contract period shall be for three (3) years from the Effective Date of the Contract, e.g., the date on which the original Contract is executed by the City of El Paso (the "Initial Term").

### Option Terms

The City of El Paso shall have the option to extend the term of the Contract for up to two (2) one (1) year term. The City Manager or designee may extend the option to extend.

### Contracting Officer (CO) and Contracting Officer's Representative (COR)

Acceptance of services will be the responsibility of the Contracting Officer (CO), who also serves as City of Paso Purchasing Director, or designee. The Contracting Officer is responsible for final approval and acceptance of all services rendered. Upon contract execution, the Contracting Officer will delegate a Contracting Officer's Representative (COR) and Department Contracts Administrator(s) (DCAs) to assist with the administration of the resultant Contract.



## 2.6 Notices of Instruction to Offerors

### 1. Signature of Offer to person Authorized to Sign

All offers shall bear an original signature, in ink, of a responsible officer or agent of the company. Failure to sign the offer portion of the solicitation, offer and award form, or to include a substitute signed document binding the offeror, will be the basis for declaring a proposal non-responsive.

### 2. Effective Period of Proposals

Proposals should expressly state that the offer will remain in effect until at least 120 consecutive days from the date set for the receipt of offers and may be accepted by the City of El Paso at any time on or before such date.

### 3. Required Number of Copies

Offer (proposal) must be submitted in original form with three (3) additional copies, unless otherwise stated herein.

### 4. Offer Submission Instructions

**Offer must be sealed when presented to the Purchasing Department.** Offers will be received by the City of El Paso until **2:00 P.M., local time, on Wednesday, March 9, 2022. Proposals will be publicly opened and the Name of the Offer and the City and State will be read aloud.**

### 5. Addressing Instructions

The envelope containing the offer must be addressed as follows:

City of El Paso  
Purchasing & Strategic Sourcing Department  
300 N. Campbell, 1st Floor  
El Paso, Texas 79901-1153  
Attn: Director

Also, write the Request for Proposal Number, Request for Qualification Title, Proposal Title, and Proposal Opening clearly on a visible section of the envelope.

### 6. Labeling of Proposals [Rev 6/15/05]

**The Due Date and Solicitation Number must be written on the outside of the package containing the offer.** The City Purchasing & Strategic Sourcing Department may open any unlabeled submittal to identify it properly. Offerors are required to identify their package to protect the integrity of their proposals and to fully avail themselves of the evaluation and selection process.

### 7. Offeror Delivery Responsibility

Proposals received at the Purchasing & Strategic Sourcing Department after the specified date and time will not be accepted. Package delivery services such as FedEx, UPS, etc. deliver packages addressed to the Director of Purchasing directly to the Purchasing & Strategic Sourcing Department. U.S. Postal Service deliveries, including Express Mail, are only delivered to the Mail Room at City Hall and may or may not be delivered by the Mail Room to the Purchasing & Strategic Sourcing Department by the time and place proposals are recorded. The offeror accepts all responsibility for delivering its offer to address stated above

within the specified time or the offer will be considered non-responsive and will be mailed back unopened. If the envelope does not reflect a return address, it will be opened for the sole purpose of obtaining the return address.

## **8. Descriptive Literature**

Descriptive literature, where applicable, containing complete scope of services or other information sufficient for the City to determine compliance with the specifications must accompany each proposal, in DUPLICATE. If an Offeror wishes to furnish additional information more sheets may be added.

The City is not responsible for locating or securing any information that is not identified in the offer and reasonably available to the City, and the City will not be responsible for locating or securing information not included with the offer. In conducting its assessment, the City may use data provided by the Offeror and data obtained from other sources, but while the City may elect to consider data obtained from other sources the burden of providing thorough and complete information rests with the Offeror.

## **9. Offer Documents, Supporting Literature and Related Data**

Related data, where applicable, will be made part of the proposal. All documents, literature and related data submitted as an offer become the property of the City of El Paso.

## **10. Alternate Offers**

The City of El Paso is not accepting alternate proposals for review, evaluation and/or consideration.

## **11. Solicitation Changes or Clarifications**

Requests for changes or clarifications to this solicitation are welcomed by the Purchasing Department for its consideration, provided the requests are in writing and received by February 23, 2022. Requests received after that time may not elicit a response. Refer to requests for clarification in Communication Section for more details.

## **12. Acknowledgement of Solicitation Amendments**

All Amendments will be acknowledged on the *Solicitation of Offers* form (first page of this solicitation). Failure to do so may cause the proposal to be rejected. It is the Offeror's responsibility to ensure that all information regarding the RFQ, including all amendments, is included in the offer. Amendments may be posted at any time up to and including the due date.

## **13. Proposal Preparation Cost**

This solicitation does not commit the City of El Paso to pay any costs incurred in preparing and submitting the proposal or to contract for the services specified. This RFQ is not to be construed as a contract or a commitment of any kind, nor does it commit the City of El Paso to pay for any costs incurred in the preparation of a formal presentation, or for any costs incurred prior to the execution of a formal contract.

## **14. Additional Information**

For further procedural information concerning this Request for Qualifications contact the point of contact for contract administration (refer to in the Communication Section for contact details).

## **15. Contract Performance**

The Respondent shall be responsible for the completion of all work set out in the Contract and task orders.

All work is subject to inspection, evaluation, and acceptance by City of El Paso. City of El Paso may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the Contract

#### **16. Notification to Unsuccessful Offerors**

All awards are made by the City Council of the City of El Paso. All City Council agenda are posted on the City of El Paso's Web Page for review by all Offerors. The URL is: <http://www.elpasotexas.gov>.

#### **17. Acceptance or Rejection of Proposals**

The City reserves the right to accept or reject any or all proposals, to waive all minor technicalities, and to accept the proposal or proposal determined to be the most advantageous to the City. Additionally, the City may accept a proposal subject to an exception if, in the sole judgment of the City, the proposal meets or exceeds the City's specifications.

#### **18. Failure to Respond to Solicitations**

Any offeror who fails to respond to three consecutive solicitations will be purged from the mailing list. It is the offeror's responsibility to remain on the mailing list under his requested commodity classes.

#### **19. Time**

[RESERVED]

#### **20. Debriefing Requests**

A written request for a debriefing should be directed to the Analyst identified in **Request for Clarification in Part 2, Item 2.4** within five (5) days after the date of award. Debriefing requests will be scheduled with the appropriate evaluation committee and Purchasing representative.

Only an Offeror who has actually submitted a proposal may appeal an award decision.

#### **21. Protest**

Failure to follow the requirements of the Protest procedures established by the City of El Paso, Texas, shall constitute a waiver of all protest rights. Protest must be made after the Council agenda has been posted and by 5 p.m. the day before the Council meeting in which the award will be made. The Offeror must write a letter to Bruce D. Collins, Purchasing Director, using the phrase "Proposal Protest" to the address listed above. Protest must be sent by certified or registered mail or delivered in person. Note: the recommendation for award is posted on the City's website at least 72 hours before each Tuesdays Council meeting.

The written protest should include 1) the Request for Proposal number and should clearly state, with particularity, the relevant facts believed to constitute an error in the award recommendation, or desired remedy; 2) a specific identification of the statutory or regulatory provision that the Protesting Offeror alleges has been violated and the provisions entitling the Protesting Offeror to relief; 3) a specific factual description, with particularity, of each action by the City that the Protesting Offeror alleges to be a violation of the statutory or regulatory provision that the Protesting Offeror has identified pursuant to item (2) of this paragraph (mere disagreement with the decisions of City employees does not constitute grounds for protest). If there is no disputed issue of the material fact, the Protest must indicate this as well.

Only the information provided within the protest period will be considered for response.

## **PART 3 - SCOPE OF WORK**

### **3.1 Scope of Work and Minimum Requirements**

In general, the Municipal Advisor shall submit to the City recommendations on debt instruments under consideration including such elements as the date of issue, interest payment dates, schedule of principal maturities, options of prior payments, security provisions and any other additional provisions designed to make the issue attractive to investors. Information to make these recommendations will be provided by City staff. Submitted recommendations should be based on the professional judgment of the Municipal Advisor with the goal of designing debt instruments, which can be sold under terms most advantageous to the City and at the lowest interest cost consistent with other considerations.

The City also strives to maintain good working relationships with bond rating agencies as well as disclose financial reports and information to these agencies and to the public. The Municipal Advisor will assist the City by preparing professional ratings presentations as well as advising the City on a semi-annual basis on strategies about how to maintain and/or upgrade the City's ratings from these agencies.

The City requests that the Municipal Advisor provide a brief description of the firm, how it is organized, and how its resources will be utilized on behalf of the City. Additionally, the overview should include how the Municipal Advisors will approach the aforementioned recommendations and other services that the firm may provide as the Municipal Advisor of the City. The Municipal Advisor shall take into account the Debt Management Policy adopted by the City of El Paso. (See Attachment A)

The overview should also include but not be limited to:

- Relevant experience of the firm and the individuals assigned to the issuer;
- Identification of the individual in charge of day-to-day management and the percentage of time committed for each individual on the account;
- The respondent's ideas on how the issuer should approach the financing, including the structure of the offering, credit-rating strategy, and investor marketing strategy;
- The analytic capability of the firm and assigned individuals and ongoing training and educational services that could be provided to the City of El Paso.
- Description of the firm's access to sources of current market information to assist in the pricing of negotiated sales and information to assist the City in planning and executing competitive sales;
- The level and types of insurance carried, including the deductible amount, to cover errors and omissions, improper judgments, or negligence; and
- Any finder's fees, fee splitting, or other contractual arrangements of the Municipal Advisor that could present a real or perceived conflict of interest, as well as any pending investigation of the Municipal Advisor or enforcement or disciplinary actions taken within the past three years by the SEC or other regulatory bodies.
- Disclosure of the firm's affiliation or relationship with any broker-dealer.

### **ADDITIONAL REQUIREMENTS**

In addition to the previous information described, the selected Municipal Advisor shall consider the following, based on their assessment, to further satisfy the requirements of the Services Overview and needs of the Deputy City Manager.

#### **Component I – Experience in Municipal Advisory Services**

The firm should have relevant experience with financings of the City of El Paso or comparable issuers and financings of similar size, types and structures, including financing in the State of Texas. The firm should provide a description,

including resumes, of the professional(s) that will provide direct municipal advisory services to the City, including the name of the lead consultant for this account and his/her primary office location. The primary individual assigned to the City should be a licensed public finance professional. The firm must be licensed in the State of Texas and should be registered with the U.S. Securities and Exchange Commission (SEC) and the Municipal Securities Rulemaking Board (MSRB).

The firm should discuss the firm's municipal advisory experience necessary to assist the City of El Paso with either competitive or negotiated sales. The firm should indicate any specific firm resources available to the proposed team that differentiates the firm from any competing firms.

For the past five years, indicate the firm's ranking as a Municipal Advisor for the following categories (indicate both total dollar volume and number of issues):

- General National Municipal Advisor
- Municipal Advisor in the State of Texas
- Municipal Advisor for Texas Cities

References from at least three other municipal clients, preferably Texas municipalities for whom similar services have been provided, are requested.

#### Component II – Local Support and Knowledge

A critical aspect of providing quality service is access to the Municipal Advisor. The firm should provide a brief description of the firm's presence and knowledge of the El Paso area tax-exempt bond market and resources dedicated to the El Paso area. The selected firm will provide the location of the office responsible for the day-to-day contact, hours of operation, secondary offices and other contact support to be provided.

Describe the firm's experience and/or knowledge of the City's political, economic, financial, legal or other issues and environment that may affect a proposed financing. Describe the firm's familiarity with GFOA's Recommended Practices relating to the selling of bonds and the selection of finance professionals. Please provide any other information that the City should consider in selecting its Municipal Advisor.

#### Component III – Financing Techniques

The Municipal Advisor will outline the overall approach to assessing the needs of the City. An example of a quantitative analysis must be included in the proposal. Describe the firm's depth of knowledge of Texas Cities financing techniques and provide a list of the municipal tax-exempt and taxable financings that have been completed for the last 5 years for which the firm served as municipal advisor for cities in the State of Texas. Please include issuer, issue description, and par amount.

#### Component IV – Trading Desk Information

If applicable, a complete description of the firm's short and long-term municipal underwriting and trading desk activities should be included in the proposal. If the firm does not have its own underwriting desk, then describe other resources the firm will use to provide pertinent pricing and market information.

#### Work Plan

Include a brief narrative description of the firm's organization and how the organization anticipates best being able to meet the specifications outlined herein in terms of methodology and solutions in performing the services described. The work plan should address the Additional Requirements.

## **SCHEDULE FOR WORK**

### **A. Quantitative Analysis**

As requested by the Deputy City Manager, the Municipal Advisor shall provide any quantitative analysis as needed within 10 days of the request. If the Municipal Advisor is unable to fulfill such request, a proposed time schedule and a list of all information to be provided to the firm and dates that the data will be required.

### **B. Draft Reports**

As requested by the Deputy City Manager, the Municipal Advisor will prepare and submit drafts of the reports and recommendations to management available for review as is mutually agreeable to the Deputy City Manager and the Municipal Advisor.

### **C. Work Schedule**

The Deputy City Manager, or designee, shall determine the work schedule for a particular debt issuance or related project.

### **D. Ratings Presentations**

For every rating presentation before the City's rating agencies, the Municipal Advisor will take the lead in preparing a thorough and complete analysis to present to the City's rating agencies. Additionally, the City requests a semi-annual review of its credit rating position and requests the Municipal Advisor to identify potential strategies to maintain and/or upgrade the City's current bond ratings.

### **E. Continuing Disclosure Requirements**

Timely disclosure of annual financial information is critical to ensuring that the City maintains good relationships with its bond rating agencies. The Municipal Advisor is responsible for coordinating and obtaining necessary information to comply with all continuing disclosure requirements on behalf of the City. Any MSRB fees imposed upon municipal advisors should not be passed through to the City.

### **F. Presentations to Council**

As requested by the Deputy City Manager, the Municipal Advisor will make presentations to City Council and others as necessary. This will generally require extensive preparation as well as submittal of professionally prepared reports no later than seven days prior to the actual Council presentation date.

## **TEAM'S EXPERIENCE, PAST PERFORMANCE, FINANCIAL CAPABILITY AND LITIGATIONS**

Describe any other experiences related to the work described in this RFQ; in particular, experiences related to the work described. Describe any prior or pending litigation, either civil or criminal, involving a governmental agency or which may affect the performance of the service to be rendered in which the consultant, any of its employees or subcontractors or sub consultants is or has been involved within the last three years.

## **OTHER DELIVERABLES**

Provide a high quality, written document to illustrate a presentation to City Council or other governing body that the consulting firm has prepared and presented.

## Part 4 – FORMAT

### 4.1 Proposal Format and Structure

All submissions must follow the submission guidelines below. The City reserves the right to reject proposals not in compliance with these requirements.

1. Use fonts no smaller than Times New Roman, 10 point. Maximum length including title page, the entire proposal, and appendices should not exceed 100 pages but may be required in some instances.
2. All pages must be numbered.
3. Address qualifications criteria in the order presented in PART 5 – PROPOSAL EVALUATION.
4. Major sections must have page breaks between them and the following sections.
5. The proposal must be signed and titled by a duly authorized representative of the Offeror.

In addition, the City requires that all proposals contain the following:

6. Title Page – Clearly label with the RFQ number, RFQ title, Offeror's name, mailing address, and fax number, and the name, telephone number, and email address of a contact person.
7. Table of Contents – Identify the page location of each major section.
8. Introduction – Provide brief narrative of background and general qualifications of the Offeror, including any experience with services/products similar in scope and/or size to those requested in this RFQ.
9. Offeror's Proposal – Include all pages from this Request for Qualifications in addition to any other materials submitted by the Offeror. State in succinct terms the Offeror's understanding of the services to be provided and how the Offeror anticipates being able to meet the scope of work as delineated within Part 3 Scope of Work.
10. Contract Clauses and Forms – Include all pages and completed forms. In addition to the above information, describe any prior or pending litigation, civil or criminal, involving a governmental agency or which may affect the performances of the services to be rendered. This includes any instances in which the Offeror or any of its employees, subcontractors, or sub-consultants is or has been involved within the last three years.
11. Client list – for historical purposes, please provide the name and addresses of organizations that have used your company for similar products/services within the last five years.
12. Response must demonstrate your comprehension of the objectives and services from the RFQ. Do not merely duplicate the Scope of Work as presented within this RFQ.
13. Appendices – include any additional information that the Offeror deems important to the decision process but that is not specified elsewhere in the RFQ.
14. Identify by name and title the individual responsible for the administration of the project. (That is, the individual who has the responsibility to oversee the contract, not a firm's contract negotiator, etc.)
15. Identify the project organization and staffing. A project organizational chart is to be provided, along with resumes of the personnel assigned to the project. Level of staff for work to be performed under this Contract. Proposals must describe the work to be performed by the individuals you name to perform essential functions and detail their specific qualifications and substantive experience directly related to this RFQ. A response prepared specifically for this RFQ is required. Marketing resumes often include non-relevant

information that may detract from the evaluation of a proposal. Lists of projects are not useful. Focus on individual's specific duties and responsibilities and how project experience is relevant to the requirements of this RFQ.

16. A list of references that can be contacted to discuss the performance on similar work. If available, provide a sample of comparable data your firm has generated for a similar project.

References that are not relevant to RFQ should not be included. Therefore, the References provided should be directly related to the requirements in the SOW. The City is particularly interested in government references. The City may obtain other information by sending out questionnaires and/or through other sources. References other than those identified by the Offeror may be contacted by the City with the information received used in the evaluation.

17. Additional Information. Offerors are asked not to include loose brochures (e.g. general marketing material). **BROCHURE MATERIAL WILL NOT BE CONSIDERED FOR REVIEW**. Only pertinent information should be submitted.

## **4.2 Copies Required**

Paper – One (1) complete, original copy (signed in blue ink where required) and **three (3) copies**, both contained in a single sealed submission. All responses shall contain those pages on which prices, other information, or signatures are required.

Electronic – One (1) electronic copy on a CD-ROM or flash drive. Format of the electronic copy must be either .doc (readable by Microsoft Word 2007 or 2010) or .pdf (readable by Adobe Reader 9). The content of the electronic file shall be an exact submission of the hard copies of the proposals (i.e., documents should bear signatures, where applicable and be filled out entirely). In event of discrepancy/conflict between the hard copy and electronic copy, the hard copy will govern.

## **4.3 Proposal Term**

The initial term of this contract shall be for **three (3) years** with the option to extend the term of the contract for up to two (2) additional term of one (1) year each. The City Manager or designee may extend the option to extend.

## **4.4 Proposal Cost**

A Fee Proposal will be requested from the highest ranked proposer.

## **PAYMENT TERMS & CONDITIONS**

**NOTE:** All vendors must accept an ACH payment effective immediately. Vendors must fill-out the attached Accounts Payable Direct Deposit Sign-Up Form located in Part 6 of this document to facilitate the Automated Clearing House (ACH) payment process.

### **Prompt Payment:**

Payments will be made to the Contractor within thirty (30) days following acceptance of goods or services, or receipt of a properly prepared invoice by the City Department identified in the Invoice Instructions set forth on the Purchase Order, whichever is later. Payments will be considered to have been made on the date of mailing (postmark) of the payment check or, for an electronic funds transfer, the specified payment date. Invoices are to be submitted in single copy to the appropriate Department. Invoices are to be submitted in single copy to the appropriate Department.

**Late Payment fees will incur at the State of Texas statutory rate.**



**FEDERAL MINIMUM WAGE**

The current Federal minimum wage shall be required by the City of El Paso for any contracts requiring an hourly wage rate as part of the proposal. In such cases, the awarded vendor’s employees shall be paid, at a minimum, the federally mandated minimum wage and the vendor shall be required to submit certified payrolls, when requested, to verify the wage rate requirement.

If the federally mandated minimum wage is increased during the term of this contract, Contractor may submit a written request for a price adjustment. The City will consider an adjustment only to the extent shown by the Contractor to be necessary to meet increased federal requirements for minimum wage employees included in the proposal.

**PART 5 - PROPOSAL EVALUATION**

**5.1 Evaluation Factors**

The proposal evaluation process is designed to award the contract, not necessarily to the Respondent of least cost, but rather to the Respondent with the best combination of attributes (i.e., qualifications and experience, cost) based upon the evaluation factors specifically established for this RFQ.

Respondents must provide all information outlined in the Evaluation Factors to be considered responsive. Proposals will be evaluated based on the responsiveness of the Respondent’s information to the Evaluation Factors, which will demonstrate the Respondent understands of the Evaluation Factors and capacity to perform the required services of this Request for Qualifications.

Proposals will be evaluated based on the following Evaluation Factors:

EVALUATION FACTORS	MAXIMUM POINTS
A. Firm’s Experience in Municipal Advisory Services	35 Points
B. Financing Techniques	20 Points
C. Experience – Comparable Contracts	15 Points
D. References	10 Points
E. Local Knowledge and Support	15 Points
F. Trading Desk or Other Source of Market Information	5 Points
Total	100 Points

**The establishment, application and interpretation of the above Evaluation Factors shall be solely within the discretion of The City of El Paso (“the City”).** The City reserves the right to determine the suitability of proposals on the basis of all these factors.

**5.2 Evaluation Factor Description**

The maximum points that shall be awarded for each of the Evaluation Factors are detailed and described below.

**Factor A – Firm’s Experience in Municipal Advisory Services.....35 Points**  
The firm should provide a description, including resumes, of the professional(s) that will provide direct municipal advisory services to the City, including the name of the lead consultant for this account and his/her primary office location. The primary individual assigned to the City should be a licensed public finance professional. The firm must be licensed in the State of Texas.

Indicate the individual’s relevant experience, relevant licenses they hold and how their particular area of expertise

would benefit the City. Specifically include experience with long-term strategic financial planning, Texas public finance laws, tax-exempt new money, advance and current refunding's, taxable financings, marketing and pricing of issues, technical analysis, arbitrage strategies and rating agencies.

Describe in detail the experience your firm has in working with an issuer similar in size and complexity to the City. Include details regarding the type of expertise your firm offers in similar transactions. Describe the firm's experience in presentations to governing boards. Describe the firm's experience in assisting Cities with rating agency presentations. Experience in managing federal/state-funded programs.

**Factor B – Financing Techniques.....20 Points**  
Describe the firm's depth of knowledge of Texas Cities financing techniques and provide a list of the municipal tax-exempt and taxable financings that have been completed for the last 5 years for which the firm served as municipal advisor for cities in the State of Texas. Please include issuer, issue description, and par amount.

**Factor C – Experience – Comparable Contracts.....15 Points**  
Offeror to provide three (3) contracts comparable in scope within the past five (5) years and have performed for at least five (5) years prior to bid opening. Contract will be considered comparable in scope if they include the following elements: provide Municipal Advisory Services related to the authorization and issuance of debt instruments or other securities as well as debt management planning services as requested by the Deputy City Manager. Offeror is required to use the Experience – Comparable Contract Form for this factor. Contracts not comparable in scope will not be evaluated.

Note: The maximum points for each contract will be determined by dividing the points allocated to this factor by 3 (i.e. 15 total points ÷ 3 = 10 points per contract).

**Factor D – References .....10 Points**  
Offeror shall provide references for three (3) contracts listed for Factor C.

A contract deemed non-comparable under Factor B shall not be considered as a viable reference under Factor C and shall not be scored.

Note: The maximum points for each reference will be determined by dividing the points allocated to this factor by 3 (i.e. 30 total points ÷ 3 =10 points per reference).

#### **Comparable Contracts and Reference Check Notice**

The Offeror is responsible for ensuring the accuracy of the comparable contracts and the contact information for the references provided. The City shall not contact the Offeror for replacement contracts, references and/or contact information if said e-mail addresses or telephones numbers are not valid or connected.

In addition to the above, the Offeror is encouraged to inform said references that they shall initially be contacted via e-mail at the e-mail address provided herein. If a response to the e-mail is not provided within the designated time frame, the City will attempt to contact the reference by telephone at the number provided. If the reference does not respond after two attempts via telephone the Offeror shall receive zero points for said reference.

**Factor E – Local Knowledge and Support .....15 Points**

A critical aspect of providing quality service is access to the Municipal Advisor. The firm should provide a brief description of the firm's presence and knowledge of the El Paso area tax-exempt bond market and resources dedicated to the El Paso area. The selected firm will provide the location of the office responsible for the day-to-day contact, hours of operation, secondary offices and other contact support to be provided.

Describe the firm's experience and/or knowledge of the City's political, economic, financial, legal or other issues and environment that may affect a proposed financing. Describe the firm's familiarity with GFOA's Recommended Practices relating to the selling of bonds and the selection of finance professionals. Please provide any other

information that the City should consider in selecting its Municipal Advisor.

**Factor F – Trading Desk or Other Source of Market Information.....5 Points**

If applicable, a complete description of the firm’s short and long-term municipal underwriting and trading desk activities should be included in the proposal for evaluation by the Evaluation Committee. If the firm does not have its own underwriting desk, then describe other resources the firm will use to provide pertinent pricing and market information

**MAXIMUM TOTAL POSSIBLE POINTS.....100 Points**

(Space left blank intentionally)

**Factor D**  
**Experience – Comparable Contract Form - #1**

**2022-0411R Professional Municipal Advisory Services**

Contract ID and Name: \_\_\_\_\_

Client Name: \_\_\_\_\_

Contract Administrator: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Performance Period: From: \_\_\_\_\_ to \_\_\_\_\_ (within the past 5 years)

Contract Details: Refer to Factor C for elements comparable in scope. Enter all the details in the space provided below that makes this contract similar in scope for this solicitation.

**Factor D**  
**Experience – Comparable Contract Form - #2**  
**2022-0411R Professional Municipal Advisory Services**

Contract ID and Name: \_\_\_\_\_

Client Name: \_\_\_\_\_

Contract Administrator: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Performance Period: From: \_\_\_\_\_ to \_\_\_\_\_ (within the past 5 years)

Contract Details: Refer to Factor C for elements comparable in scope. Enter all the details in the space provided below that makes this contract similar in scope for this solicitation.

**Factor D**  
**Experience – Comparable Contract Form - #3**

**2022-0411R Professional Municipal Advisory Services**

Contract ID and Name: \_\_\_\_\_

Client Name: \_\_\_\_\_

Contract Administrator: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Performance Period: From: \_\_\_\_\_ to \_\_\_\_\_ (within the past 5 years)

Contract Details: Refer to Factor C for elements comparable in scope. Enter all the details in the space provided below that makes this contract similar in scope for this solicitation.

### **5.3 Evaluation and Award Process-General Information**

- A. All offers are subject to the terms and conditions of this solicitation. Material exceptions to the terms and conditions, or failure to meet the City's minimum specifications, shall render the offer non-responsive to the solicitation.
- B. Any award made under this solicitation shall be made to the Offeror who provides goods or services, other than professional services as defined by Section 2254.002 of the Government Code, that are determined to be the most advantageous to the City. Factors to be considered in determining the proposal most advantageous to the City are included below.
- C. As part of the requirement to establish the responsibility of the Offeror, the City of El Paso may perform a price analysis to determine the reasonableness of the price(s) of the highest ranked Offeror's professional services. Prices that appear to be unreasonably low may be determined to be evidence that pricing is not fair and reasonable and cause the Offer to be rejected.

#### **5.3.1 Evaluation and Award Process**

- A. An Evaluation Committee shall be established to evaluate responses based solely on the Evaluation Factors set forth below. Factors not specified in the RFQ will not be considered. The City reserves the right to waive any minor irregularities or technicalities in the offers received. Responses will be evaluated on an individual basis against the requirements stated in the RFQ.
- B. Minor problems of completeness or compliance may be called to the attention of Offerors for clarification. Substantial deviations from specifications or other requirements of this RFQ will result in disqualification of an offeror's response.
- C. Award of a contract for professional services will be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. Detailed evaluation of the responses to this RFQ will involve a determination of the most favorable combination of various elements contained in this RFQ.
- D. During the evaluation process, the City reserves the right, where it may serve in the City's best interest, to request additional information or clarifications from Offerors, or to allow corrections of errors or omissions.
- E. All responses meeting the minimum specifications of the scope of work will be ranked based on the evaluation criteria listed. After initial evaluations, the Evaluation Committee will determine a ranking..
- F. At the completion of the evaluation period, the City will enter into negotiations with the highest ranked offeror. If the City cannot come to an agreement with that offeror it will formally end negotiations with that respondent and begin negotiations with the next highest ranked respondent.
- G. The City reserves the right to negotiate the final scope of services, price, schedule, and any and all aspects of this solicitation with the highest ranked respondent.
- H. Responses to this RFQ that are considered non-responsive will not receive consideration. The City reserves the right at any time during the evaluation process to reconsider any proposal submitted. It also reserves the right to meet with any Respondent at any time to gather additional information. Furthermore, the City reserves the right to delete, add or modify any aspect of this procurement through competitive negotiations up until the final contract signing.
- I. The successful Offeror's response to this RFQ will be incorporated into the final contract. Any false or misleading statements found in the proposal will be grounds for disqualification or contract termination. Submission of a proposal indicates acceptance by the Offeror of the conditions contained in this RFQ, unless

clearly and specifically noted in the proposal and confirmed in the contract between the City and the Offeror selected.

- J. The City reserves the right to award this contract to one Respondent or to make multiple awards. The city may reject any or all offers if such action is in the City's interest, award, waive informalities and minor irregularities in offers received, and award all or part of the requirements stated.

## **Responsibility Determination**

The responsibility determination includes consideration of a Respondent's integrity, compliance with public policy, past performance with the City (if any), financial capacity and eligibility to perform government work (e.g., debarments/suspension from any Federal, State, or local government). The City reserves the right to perform whatever research it deems appropriate in order to access the merits of any Respondent's proposal.

### **A. Financial Capacity Determination**

#### **FINANCIAL INFORMATION**

**Financial Statements.** Please provide financial statements for your organization for at least the last two (2) fiscal years as follows:

If a **publicly** held organization:

- (1) Consolidated financial statements as submitted to the Securities and Exchange Commission (SEC) on Form 10K.
- (2) The most recent Forms 100 since the last Form 10K was submitted.
- (3) Any Form 8K's in your last fiscal year.

If a **privately** held organization:

- (1) Balance sheet for your last two fiscal years certified by an independent Certified Public Accountant.
- (2) Statement of income of your last two fiscal years certified by an independent Certified Public Accountant.

Management discussion and analysis of your organization's financial condition for the last two years indicating any changes in your financial position since the certified statements were prepared.

If not considered proprietary, any recent Management Letters.

#### **Evidence of Financial Responsibility.**

Submit evidence of financial responsibility. This may be a credit rating from a qualified firm preparing credit rating or a bank reference.

The City reserves the right to confirm and request clarification of all financial information provided (including requesting audited financial statements certified by an independent Certified Public Accountant), or to request documentation of the Offeror's ability to comply with all of the requirements in the Proposal Documents.

Incomplete disclosures may result in a proposal being deemed non-responsive.

Note: Dun & Bradstreet has the capability to obtain information on past performance on specific contractors. Accordingly, the City may require Offerors to provide a copy of a recent past performance report prepared by Dun & Bradstreet. The Past Performance Evaluation Report



provided to the Offeror by Dun & Bradstreet shall be submitted, not later than 14 calendar days after request by the City. The Offeror shall be responsible for the cost of Dun & Bradstreet's preparation of the report.

## **B. Technical Capacity Determination**

The City may conduct a survey relating to the Respondent's record of performance on past and present projects that are similar to the scope of work identified in this RFQ, which may include services/projects not identified by the Respondent. The City reserves the right to perform whatever research it deems appropriate in order to assess the merits of any Respondent's proposal. Such research may include, but not necessarily be limited to, discussions with outside Respondents, interviews and site visits with the Respondent's existing clients and analysis of industry reports. The City will make a finding of the Respondent's Technical Resources/Ability to perform the RFQ scope of work based upon the results of the survey.

A Respondent will be determined responsible if the City determines that the results of the Technical Resources/Ability survey reflect that the Respondent is capable of undertaking and completing the RFQ scope of work in a satisfactory manner.

## **PART 6 - MANDATORY SUBMITTALS**

- 6.1 Business Information Certification
- 6.2 Non-Collusion and Business Disclosure Affidavit
- 6.3 Indebtedness Affidavit
- 6.4 Certification Regarding Terrorist Organizations & Boycotting of Israel
- 6.5 Certification Regarding Discrimination Against Firearm & Ammunition Industries
- 6.6 Certification Regarding Boycotting of Energy Company
- 6.7 Vendor Information Form
- 6.8 W-9 Request for Taxpayer Identification Number and Certification
- 6.9 Direct Deposit Form
- 6.10 Conflict of Interest Questionnaire
- 6.11 1295 Form



## **SECTION D FORMS**

### **6.1 Business Information Certification**

Mark all that apply.

- |   |  |
|---|--|
| <input type="checkbox"/> Manufacturer or Producer | <input type="checkbox"/> Disadvantaged Business Enterprise |
| <input type="checkbox"/> Wholesaler               | <input type="checkbox"/> Asian - Pacific American          |
| <input type="checkbox"/> Retailer                 | <input type="checkbox"/> Black American                    |
| <input type="checkbox"/> Franchised Distributor   | <input type="checkbox"/> Hispanic American                 |
| <input type="checkbox"/> Factory Representative   | <input type="checkbox"/> Native American                   |
| <input type="checkbox"/> Other _____              | <input type="checkbox"/> Woman Owned Business              |
| <input type="checkbox"/> Large Business           | <input type="checkbox"/> Handicapped                       |
| <input type="checkbox"/> Small Business           | <input type="checkbox"/> Local Business Enterprise         |
|   | HUB State Certified Historically Underutilized Business    |
|   | (please furnish copy of Certification)                     |

**SMALL BUSINESS CONCERN:** Less than \$1,000,000.00 in annual receipts or fewer than one hundred [100] full time employees.

**DISADVANTAGED BUSINESS ENTERPRISE:** At least fifty-one percent [51%] owned by one or more socially disadvantaged individuals, or a publicly held corporation with at least fifty-one percent [51%] of the stock owned by one or more such individuals.

**WOMAN-OWNED BUSINESS:** At least fifty-one percent [51%] owned by a woman, or women, who also control and operate the business. "Control" in this context means making policy decisions. "Operate" in this context means actively carrying on day to day management

**HANDICAPPED:** At least fifty-one percent [51%] owned by a person or persons with an orthopedic, otic [hearing], optic [visual], or mental impairment which substantially limits one or more of their major life activities.

**LOCAL BUSINESS:** A business with a Tier 1 or Tier 2 principal place of business within in incorporated city limits of El Paso, Texas.

**HUB [HISTORICALLY UNDERUTILIZED BUSINESS]:** A Business Enterprise, which has been granted a Certificate by the State of Texas, as a Historically Underutilized Business. The City of El Paso utilizes information on Historically Underutilized Businesses (HUB), from the State of Texas Comptroller of Public Accounts (CPA), HUB Program, 1711 San Jacinto Ave, P.O. Box 13186, Austin, Texas 78711. The City encourages you to contact the State if you feel you may qualify.

I certify that the foregoing information is a full, true and correct statement of the facts.

\_\_\_\_\_  
Signature of Person Authorized to Sign Application

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**City of El Paso  
Purchasing & Strategic Sourcing Department**

**6.2 Non-Collusion and Business Disclosure Affidavit**

**THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE**

Before me, the undersigned official, on this day, personally appeared \_\_\_\_\_, a person known to me to be the person whose signature appears below; whom after being duly sworn upon his/her oath deposed and said:

1. I am over the age of 18, have never been convicted of a crime and am competent to make this affidavit.
  2. I am a duly authorized representative of the following company or firm (the "Offeror") which is submitting a response to 2022-0411R  
*Professional Municipal Advisory Services*  
\_\_\_\_\_(Name of Offeror).
  3. **BY SUBMITTING THIS BID, I CERTIFY THAT OFFEROR AND ITS AGENTS, OFFICERS OR EMPLOYERS HAVE NOT DIRECTLY OR INDIRECTLY ENTERED INTO ANY AGREEMENTS, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION IN RESTRAINT OF FREE COMPETITIVE BIDDING IN CONNECTION WITH THIS BID OR WITH ANY CITY OFFICIAL.**
  4. I have listed in **Paragraph 10** below all the names the Offeror uses and has used in the past and certify that I have disclosed all such names, including any assumed (DBA) names.
  5. **Certificate of Organization.** In completing this Affidavit, I have attached a copy of the organization certificate issued by the Secretary of State of the state in which the company was organized (i.e. Certificate of Formation, Certificate of Good Standing, Statement of Operation or Registration and/or a copy of Assumed Name Certificate if the Offeror/Offeror used a trade name in the Solicitation documents is other than the name under which company was organized).
  6. **Material Change in Organization or Operation.** *Except as described in Paragraph 10 below*, I certify that Offeror is not currently engaged nor does it anticipate that it will engage in any negotiation or activity that will result in the merger, transfer of organization, management reorganization or departure of key personnel within the next twelve (12) months that may affect the Offeror's ability to carry out the contract with the City of El Paso.
  7. **Debarment/Suspension.** *Except as described in Paragraph 10 below*, I certify that Offeror and its subcontractors, officers or agents are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any covered transactions by any federal, state or local department or agency. If such an event has occurred, state in **Paragraph 10** below, the reason for or the circumstances surrounding the debarment or suspension, including but, not limited to, the name of the governmental entity, the period of time for such debarment or suspension and provide the name and current phone number of a governmental contact person familiar with the debarment or suspension.
- I understand the Offeror is obligated to immediately inform the City in the event that the Offeror is included in such a debarment/suspension list during the performance of this Contract with the City of El Paso.
8. **Default/Termination of Contracts.** *Except as described in Paragraph 10 below*, I certify that, within the last 24 months, there are no Contract(s) between the Offeror and a governmental entity that have been terminated, with or without the Offeror's default. If such a contract has been terminated within the last 24 months, state in **Paragraph 10** below the reason for or circumstances surrounding the termination.
  9. **Taxpayer Identification.** In completing this Affidavit, I have also attached a copy of a completed Form W-9 that shows the Offeror's taxpayer identification number (Employer Identification Number or Social Security Number). I understand that failure to provide this information may require the City to withhold 20% of payments due under the contract and pay that amount directly to the IRS.

10. Additional Information (state the number of paragraph above which corresponds to the information provided)

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*(Attach additional pages if needed)*

*Attached are the following:*

Certificate of Organization (required by Paragraph 5)

Taxpayer Identification (required by Paragraph 9)

**I understand that by providing false information on this Affidavit, I could be found guilty of a Class A misdemeanor or state jail felony under the Texas Penal Code, Section 37110. In addition, by providing false information on this Affidavit, the Offeror it could be considered not responsible on this and future solicitations, and such determination could result in the discontinuation of any/all business or contracts with the Offeror by the City of El Paso.**

SUBSCRIBED AND SWORN to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Commission Expires



**City of El Paso  
Purchasing & Strategic Sourcing Department**

**6.3 Indebtedness Affidavit**

**THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE**

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_ [FULL NAME] (hereafter “**Affiant**”), a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed stated as follows:

1. Affiant is authorized and competent to give this affidavit and has personal knowledge of the facts and matters herein stated.
2. Affiant is an authorized representative of the following company or firm: \_\_\_\_\_  
[Contracting Entity’s Corporate or Legal Name] (hereafter, “**Contracting Entity**”).
3. Affiant is submitting this affidavit in response to the following bid: *Solicitation No. 2022-0411R Professional Municipal Advisory Services*
4. Contracting Entity is organized as a business entity as noted below (check box as applicable):

**For Profit Entity (select below):**

- ☐ Sole Proprietorship
- ☐ Corporation
- ☐ Partnership
- ☐ Limited Partnership
- ☐ Joint Venture
- ☐ Limited Liability Company
- ☐ Other (Specify type in space provided below):  
\_\_\_\_\_

**For Non-Profit Entity or Other (select below):**

- ☐ Non-Profit Corporation
- ☐ Unincorporated Association

5. The information shown below is true and correct for the Contracting Entity. If Contracting Entity is a sole proprietorship or partnership, list all owners of 5% or more of the Contracting Entity. Where the Contracting Entity is an unincorporated association, the required information has been shown for each officer. [Note: In all cases, use FULL name, business and residence addresses and telephone numbers.]

**Contracting Entity:**

Name	
Business Address [No./Street]	
City/State/Zip Code	
Telephone Number	
Resident Address (if applicable)	
City/State/Zip Code	
Telephone Number	
Federal Tax ID Number	
Texas Sales Tax Number	

**5% Owner(s) or Officers of Unincorporated Association \*\* (If none, state "None"):**

Name	
Business Address [No./Street]	
City/State/Zip Code	
Telephone Number	
Resident Address (if applicable)	
City/State/Zip Code	
Telephone Number	

\*\*Attach additional pages if necessary to supply the required names and addresses.

6. Affiant understands that in accordance with Ordinance No. 016529 of the City of El Paso (the "**City**"), the City may refuse to award a contract to or enter into a transaction with Contracting Entity that is an apparent low Offeror or successful Offeror that is indebted to the City.
7. Affiant understands that the term "**Debt**" shall mean any sum of money, which is owed to the City by a Contracting Entity, Owner, or Vendor, that exceeds one hundred dollars (\$100.00) and that has become Delinquent, as defined hereinafter. Such Debt shall include but not be limited to: (i) property taxes; (ii) hotel/motel occupancy taxes; and (iii) license and permit fees.
8. Affiant understands that the term "**Delinquent**" shall mean any unpaid Debt that is past due for sixty (60) days or more and, which is not currently subject to challenge, protest, or appeal.
9. Affiant represents that to the best of its knowledge, the Contracting Entity is not indebted to the City in any amounts as described in Item No. 7 above, as of the date of the submittal. If the Contracting Entity is indebted to the City, the following represents the type and estimated amount of indebtedness:

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10. If the Contracting Entity is indebted to the City, describe any payment arrangements that have been entered into to settle the Debt.

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11. In the event that the City refuses to do business with a Contracting Entity due to any indebtedness listed above or as determined by the City Financial Services Department, the Contracting Agency may appeal this determination in accordance with the appeal regulations in Ordinance 016529.

**Affiant certifies that he is duly authorized to submit the above information on behalf of the Contracting Entity, that Affiant is associated with the Contracting Entity in the capacity noted above and has personal knowledge of the accuracy of the information provided herein; and that the information provided herein is true and correct to the best of Affiant's knowledge and belief. Affiant understands that providing false information on this form shall be grounds for debarment and discontinuation of any/all business with the City of El Paso.**

SUBSCRIBED AND SWORN to before me on this

\_\_\_\_\_  
Signature

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Commission Expires



**City Of El Paso  
Purchasing & Strategic Sourcing Department**

**6.4 Certification Regarding Terrorist Organizations & Boycotting of Israel**

**THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE**

I, \_\_\_\_\_ (Full Name) the undersign representative of  
\_\_\_\_\_ (Company Name) (herein after referred as Vendor) hereby Certifies that:

1. It is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.
2. Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary or parent company of Vendor, if any (the "Vendor Companies"), boycotts Israel and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this agreement. For purposes of this Agreement, the term "boycott" shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory. (See Texas Government Code Chapter 2270.002 and 2252.151-154.)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**City of El Paso**  
**Purchasing & Strategic Sourcing Department**

**6.5 Certification Regarding Discrimination Against Firearm & Ammunition Industries**

**THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE**

I, \_\_\_\_\_ (Full Name) the undersign representative of  
\_\_\_\_\_ (Company Name) (herein after referred as Vendor) hereby

Certifies that:

(1) neither Vendor, nor any affiliate, subsidiary or parent company of Vendor, if any (the "Vendor Companies"), does not have a written or unwritten internal practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association; and

(2) Vendor agrees that Vendor and VendorCompanies will not discriminate during the term of the contract against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association during the term of this agreement pursuant to the provisions of Texas Government Code Chapter 2274.

For purposes of this Agreement, the term "Discriminate against a firearm entity or firearm trade association" shall have the meaning defined in Texas Government Code Chapter 2274.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**





**City of El Paso  
Purchasing & Strategic Sourcing Department**

**6.6 Certification Regarding Boycotting of Energy Company**

**THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE**

I, \_\_\_\_\_ (Full Name) the undersign representative of \_\_\_\_\_

\_\_\_\_\_  
(Company Name) (herein after referred as Vendor) hereby

**Certifies that:**

1. It is not a company identified on the Texas Comptroller’s list of companies known to boycott energy companies, as defined in Texas Government Code Chapter 809.
2. Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary or parent company of Vendor, if any (the “Vendor Companies”), boycotts energy companies and Vendor agrees that Vendor and VendorCompanies will not boycott energy companies during the term of this agreement pursuant to the provisions of Texas Government Code Chapter 809. For purposes of this Agreement, the term “boycott energy company” shall have the meaning defined in Texas Government Code Chapter 809.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

## 6.7 Vendor Information Form

### CITY OF EL PASO PURCHASING & STRATEGIC SOURCING DEPARTMENT VENDOR INFORMATION FORM

This form must be accompanied by an IRS Form W-9 and Conflict of Interest Questionnaire

City Department: \_\_\_\_\_ Telephone # \_\_\_\_\_ Name: \_\_\_\_\_

Request:

☐ Add ☐ Update ☐ Inactivate

☐ Vendor ☐ Contractual Employee ☐ City of El Paso Employee

Vendor Sales Address: \_\_\_\_\_ If same as W-9 check box ☐

Company Name: \_\_\_\_\_

Street: \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Contact Name & Title: \_\_\_\_\_

(Authorized Company Contact)

Telephone # (required) (\_\_\_\_) \_\_\_\_\_ Fax # (\_\_\_\_) \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Contact Name & Title: \_\_\_\_\_

(Alternate Authorized Company Contact)

Telephone # (required) (\_\_\_\_) \_\_\_\_\_ E-mail \_\_\_\_\_

Web Page: \_\_\_\_\_

#### VENDOR STATUS:

(Yes ☐ ) (No ☐ ) Small business concern (Less than 100 employees or less than \$1,000,000.00 Annual Receipts) (Yes ☐ ) (No ☐ ) Disadvantage business concern (At least 51% owned by one or more socially disadvantaged individuals; or, a publicly-owned business at least 51% of the stock owned by one or more of such individuals.) If your company is certified please send us a photo copy. We must have an updated copy of the certificate on file. DBES include (Please mark one):

( ☐ ) Black Americans

( ☐ ) Hispanic Americans

( ☐ ) Native Americans

( ☐ ) Asian-Pacific Americans

(Yes ☐ ) (No ☐ ) Woman-owned business (At least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.)

(Yes ☐ ) No ☐ ) Handicapped (At least 51% owned by a person or persons with an orthopedic, hearing, mental or visual impairment which substantially limits one of more of his/hers/their major life activities.)

(Yes ☐ ) No ☐ ) Local business enterprise (At least 51% of which is owned by a resident or residents of El Paso County and the principal place of business is in El Paso County.)

(Yes ☐ ) No ☐ ) Hub (Historically underutilized business) If your company is certified please send us a photo copy. We need to have an updated copy of the certificate on file.

IRS-Withholding required information – Mark one of the following which applies to the type of payment that will be made to the vendor: (Incomplete forms will be returned)

☐ Goods (No Withholding / No Default Class)

☐ Settlement / Attorney Proceeds (Withholding / Default Class 14)

☐ Medical & Healthcare (Withholding / Default Class 6)

☐ Services (Withholding / Default Class 7)

☐ Rental Property (Withholding / Default Class 1)

☐ Stipend (No Withholding / Default Class 7)

☐ Corporation (No Withholding/ No Default Class)

#### Contractual Employees or Vendors

- Based on W-9, Individual/Sole Proprietor, Partnership, Limited Liability Company (all LLCs C=Corporation, D=Disregarded Entity, S=Corporation, P=Partnership) are marked as withholding. Corporation is not marked as withholding.
- Vendors for Rent, Medical Services, Attorney Fees are **always** marked as withholding, even if they are a Corporation

City of El Paso Employees (IRS-Withholding not required for the following items)

☐ Pension ☐ Refund ☐ Mileage ☐ Reimbursement ☐ Settlement ☐ Travel Request ☐ Tuition Reimbursement

Send Form To: [vendormanagement@elpasotexas.gov](mailto:vendormanagement@elpasotexas.gov) P - 915-212-0043 F - 915-212-0044

## 6.8 W-9 Request for Taxpayer Identification Number and Certification

<b>Form W-9</b> (Rev. October 2018) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer Identification Number and Certification</b> ▶ Go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> for instructions and the latest information.	<b>Give Form to the requester. Do not send to the IRS.</b>																																																																						
Print or type. See Specific Instructions on page 3.	<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.																																																																							
	<b>2</b> Business name/disregarded entity name, if different from above																																																																							
	<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.																																																																							
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC																																																																							
	<input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate																																																																							
	<input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____																																																																							
	<input type="checkbox"/> Other (see instructions) ▶ _____																																																																							
<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>																																																																								
<b>5</b> Address (number, street, and apt. or suite no.) See instructions.																																																																								
<b>6</b> City, state, and ZIP code																																																																								
<b>7</b> List account number(s) here (optional)																																																																								
<b>Part I Taxpayer Identification Number (TIN)</b> Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> , later. <b>Note:</b> If the account is in more than one name, see the instructions for line 1. Also see <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.																																																																								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="10" style="text-align: center;"><b>Social security number</b></td> </tr> <tr> <td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td> </tr> <tr> <td colspan="4"></td> <td style="text-align: center;">-</td> <td colspan="2"></td> <td style="text-align: center;">-</td> <td colspan="2"></td> </tr> <tr> <td colspan="10" style="text-align: center;">or</td> </tr> <tr> <td colspan="10" style="text-align: center;"><b>Employer identification number</b></td> </tr> <tr> <td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td> </tr> <tr> <td colspan="4"></td> <td style="text-align: center;">-</td> <td colspan="2"></td> <td colspan="2"></td> <td></td> </tr> </table>			<b>Social security number</b>																								-			-			or										<b>Employer identification number</b>																								-					
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<b>Part II Certification</b> Under penalties of perjury, I certify that:																																																																								
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.																																																																								
<b>Certification instructions.</b> You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.																																																																								
<b>Sign Here</b>	Signature of U.S. person ▶ _____	Date ▶ _____																																																																						
<b>General Instructions</b> Section references are to the Internal Revenue Code unless otherwise noted. <b>Future developments.</b> For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> .																																																																								
<b>Purpose of Form</b> An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:																																																																								
<ul style="list-style-type: none"> <li>• Form 1099-DIV (dividends, including those from stocks or mutual funds)</li> <li>• Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)</li> <li>• Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)</li> <li>• Form 1099-S (proceeds from real estate transactions)</li> <li>• Form 1099-K (merchant card and third party network transactions)</li> <li>• Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)</li> <li>• Form 1099-C (canceled debt)</li> <li>• Form 1099-A (acquisition or abandonment of secured property)</li> </ul> Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN. <i>If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.</i>																																																																								

Cat. No. 10231X

 Form **W-9** (Rev. 10-2018)

## 6.9 Direct Deposit



### CITY OF EL PASO **PURCHASING & STRATEGIC SOURCING**

#### DIRECT DEPOSIT SIGN-UP FORM

This form is used to collect important information to enroll, update or change your Direct Deposit request. Please complete and return to the Purchasing & Strategic Sourcing Department; see contact information provided below. For assistance, please call 915-212-0043.

#### Part I – Vendor / Employee Information

Name of Payee (Print) \_\_\_\_\_  
Federal Taxpayer ID Number or Employee KRONOS ID# \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, and Zip Code \_\_\_\_\_  
Telephone \_\_\_\_\_  
**E-mail to Receive ACH Remittance Notifications** \_\_\_\_\_

#### Part II – Direct Deposit Information

Action Requested: ☐ Start Direct Deposit ☐ Stop Direct Deposit ☐ Change Direct Deposit  
Name of Financial Institution: \_\_\_\_\_  
Routing Number (must be nine digits): \_\_\_\_\_  
Bank Account Number: \_\_\_\_\_  
Account Type: ☐ Checking ☐ Savings


For security purposes, you **must attach a voided check or bank letter** in order to process direct deposit request. Do not use a deposit slip as some banking institutions do not display the correct routing number on deposit slips.

**Voided Check or Bank Letter Required**



#### Part III – Terms and Conditions

I hereby authorize and request the City of El Paso to initiate credit entries and if necessary, a debit entry in accordance with National Automated Clearing House Association (NACHA) rules reversing a credit entry made in error, to my account at the financial institution named. The electronic payment is to remain in effect until withdrawn by written notification to the City of El Paso. Funds that are sent to a closed bank account are returned by the banking institutions within five (5) business days. Re-issued payments will be made when funds are returned to City of El Paso.

Print Name and Title: \_\_\_\_\_ Signature:  \_\_\_\_\_ Date: \_\_\_\_\_  
(Authorized Company Contact)

Purchasing & Strategic Sourcing Department  
300 N. Campbell, 1<sup>st</sup> floor – EL PASO TX 79901

PPS FORM 038, V2 OS, March 7, 2017 All previous versions are obsolete



## 6.10 Conflict of Interest Questionnaire

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b> <b>For vendor doing business with local governmental entity</b>		<b>FORM CIQ</b>
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<b>OFFICE USE ONLY</b>	
<p><b>1 Name of vendor who has a business relationship with local governmental entity.</b></p>  	<p>Date Received</p>  	
<p><b>2</b> <input type="checkbox"/> <b>Check this box if you are filing an update to a previously filed questionnaire.</b> (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3 Name of local government officer about whom the information is being disclosed.</b></p> <div style="text-align: center;"> <hr style="width: 60%; margin: 0 auto;"/> <p>Name of Officer</p> </div>		
<p><b>4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</b></p>          <p>A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <div style="text-align: center;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No         </div> <p>B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <div style="text-align: center;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No         </div>		
<p><b>5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</b></p>          		
<p><b>6</b> <input type="checkbox"/> <b>Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</b></p>		
<p><b>7</b></p>  <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <hr style="width: 100%; margin: 0;"/> <p>Signature of vendor doing business with the governmental entity</p> </div> <div style="width: 35%;"> <hr style="width: 100%; margin: 0;"/> <p>Date</p> </div> </div>		

## CONFLICT OF INTEREST QUESTIONNAIRE

### For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

...

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;

or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

## 6.11 Form 1295

### **Business Entity: Disclosure of Interested Parties Texas**

#### **Government Code § 2252.908**

#### **Form 1295**

#### **This Form is required in the submission of your bid or proposal:**

The Texas Legislature adopted House Bill 1295 in 2015. HB 1295 added Section 2252.908 to the Government Code. Under this new law, any business entity that enters into a contract with the City of El Paso that requires the approval of the City Council must submit a “Disclosure of Interested Parties” to the City prior to the execution of the contract. This form, the “Disclosure of Interested Parties” form was promulgated by the Texas Ethics Commission, and is the “Form 1295”.

The Texas Ethics Commission was also charged with promulgating rules to implement Section 2252.908 of the Government Code. The rules adopted by the Texas Ethics Commission are located at Sections 46.1, 46.3, and 46.5 of Title 1 of the Texas Administrative Code.

The Texas Ethics Commission’s website is: [www.ethics.state.tx.us](http://www.ethics.state.tx.us). The area of their website pertaining to Form 1295 is: [www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](http://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

All business entities are encouraged to visit the Texas Ethics Commission website, which contains Frequently Asked Questions, instructional videos, and much more information on HB1295/Section 2252.908 requirements and/or to consult with their own counsel.

Once the business entity has completed their electronic filing of Form 1295, then the business entity must print out the form and sign and notarize the form. The form must be submitted with your bid or proposal.

If your firm is selected for award, the Purchasing & Strategic Sourcing Department will go to the Texas Ethics Commission website to submit electronic confirmation of the City’s receipt of the completed, signed, and notarized Form 1295.

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4	Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party. ☐

## 6 UNSWORN DECLARATION

My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

My address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(month) (year)

\_\_\_\_\_  
Signature of authorized agent of contracting business entity  
(Declarant)

ADD ADDITIONAL PAGES AS NECESSARY





## PART 7 - CONTRACT CLAUSES

### 1. TYPE AND TERM OF CONTRACT

This is a Requirements Best Value Contract under which the City shall order all of its supplies and/or services described in Part 2 from the successful bidder, hereinafter referred to as the Contractor, for the duration of the contract.

In the event the City has not obtained another service contractor by the expiration date of the term contract, the City, at its discretion, may extend the contract on a month-to-month basis not to exceed six (6) months until such time as a new contract is awarded.

The term of this agreement shall be for Thirty-Six (36) Months commencing on the date the Contractor receives a written NOTICE OF AWARD. Delivery of the NOTICE OF AWARD shall be by email or US Postal Service.

### 2. INVOICES & PAYMENTS

1. The Contractor will submit invoices, in single copy, on each contract after each delivery. Invoices covering more than one purchase order will not be accepted.
2. Invoices will be itemized, including serial number of unit; transportation charges, if any, will be listed separately.
3. Invoices will reflect the Contract Number and the Purchase Order Number.
4. Do not include Federal Tax, State Tax, or City Tax. The City will furnish a tax exemption certificate upon request.
5. Discounts will be taken from the date of receipt of goods or date of invoice, whichever is later.
6. A copy of the bill of lading and the freight waybill when applicable will be attached to the invoice.
7. Payment will not be due until the above instruments are submitted after delivery and acceptance.
8. Mail invoices to the City Department indicated in the Invoice Instructions set forth on the Purchase Order.
9. Contractor shall advise the Comptroller of any changes in its remittance addresses.

### 3. CONTRACTUAL RELATIONSHIP

Nothing herein will be construed as creating the relationship of employer and employee between the City and the Contractor or between the City and the Contractor's employees. The City will not be subject to any obligations or liabilities of the Contractor or his employees incurred in the performance of the contract unless otherwise herein authorized. The Contractor is an independent Contractor and nothing contained herein will constitute or designate the

Contractor or any of his employees as employees of the City. Neither the Contractor nor his employees will be entitled to any of the benefits established for City employees, nor be covered by the City's Workers' Compensation Program.

### 4. INDEMNIFICATION [Rev. 04-15-99] [Rev. 01-04-04] [Rev. 10-19-18]

**Contractor or its insurer will INDEMNIFY, DEFEND AND HOLD the City, its officers, agents and employees, HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY,**

**DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THIS AGREEMENT, even where such damage, injury, loss, illness, physical or mental impairment, loss of service, or death results from or involves NEGLIGENCE, or allegations of negligence on the part OF THE CITY, its officers, agents, or employees. Without modifying the conditions of preserving, asserting or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Contractor every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. Contractor will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as the Contractor may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. Contractor will pay all judgments finally establishing liability of the City in actions defended by Contractor pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by Contractor, and premiums on any appeal bonds. The City, at its election, will have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City will not be responsible for any loss of or damage to the Contractor's property from any cause.**

### 5. GRATUITIES

The City may, by written notice to the Contractor, cancel this contract without liability to Contractor if it is determined by the City that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the City of El Paso with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making or any determinations

with respect to the performing of such a contract. In the event this contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

## 6. WARRANTY-PRICE

- A. The price to be paid by the City will be that contained in the Contractor's bid which the Contractor warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by this contract for similar quantities under similar or like conditions and methods of purchase. In the event Contractor breaches this warranty the prices of the items will be reduced to the Contractor's current prices on orders by others, or in the alternative, the City may cancel this contract without liability to Contractor for breach or Contractor's actual expense.
- B. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the City will have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

## 7. RIGHT TO ASSURANCE

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) calendar days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

## 8. TERMINATION [Rev. 06/07/97]

### A. Termination for Convenience

The City of El Paso may terminate this contract, in whole or in part, at any time by written notice to the Contractor. The Contractor will be paid its costs, including the contract close out costs, and profit on work performed up to the time of termination. The Contractor will promptly submit its termination claim to the City of El Paso to be paid the Contractor. If the Contractor has any property in its possession belonging to the City of El Paso, the Contractor will account for the same, and dispose of it in the manner the City of El Paso directs.

### B. Termination for Default

If the Contractor fails to comply with any provision of the contract the City of El Paso may terminate this contract for default. Termination shall be effected by serving a notice of

intent to terminate the contract setting forth the manner in which the Contractor is in default. The Contractor will be given an opportunity to correct the problem within a reasonable time before termination notice is rendered. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. The City shall have the right to immediately terminate the Contract for default if the Contractor violates any local, state, or federal laws, rule or regulations that relate to the performance of this Agreement.

C. Termination for Failure to Comply with Subchapter J, Chapter 552, Government Code. [1/10/2020]

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.

## 9. ADDITIONAL REMEDIES [New 12/96]

If the City terminates the contract because the Contractor fails to deliver goods as required by the contract, the City shall have all of the remedies available to a buyer pursuant to the UNIFORM COMMERCIAL CODE including the right to purchase the goods from another vendor in substitution for those due from the Contractor. The cost to cover shall be the cost of substitute goods determined by informal or formal procurement procedures as required by the Local Government Code. The City may recover the difference between the cost of cover and the contract cost by deducting the same from amounts owed to Contractor for goods delivered prior to termination or any other lawful means.

## 10. TERMINATION FOR DEFAULT BY CITY [Rev. 06/09/97]

If the City fails to perform any of its duties under this contract, Contractor may deliver a written notice to the Purchasing Director describing the default, specifying the provisions of the contract under which the Contractor considers the City to be in default and setting forth a date of termination not sooner than 90 days following receipt of the Notice. The Contractor at its sole option may extend the proposed date of termination to a later date. If the City fails to cure such default prior to the proposed date of termination, Contractor may terminate its performance under this Contract as of such date.

## 11. FORCE MAJEURE [Rev. 06/07/97]

If, by reason of Force Majeure, either party hereto will be rendered unable wholly or in part to carry out its obligations under this Contract then such party will give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, will be suspended for only thirty (30) days during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party will try to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, will mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemies, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals. It is understood and agreed that the settlement of strikes and lockouts will be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure will be remedied with all reasonable dispatch will not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty. If a party is unable to comply with the provisions of this contract by reason of Force Majeure for a period beyond thirty days after the event or cause relied upon, then upon written notice after the thirty (30) days, the affected party shall be excused from further performance under this contract.

#### 12. ASSIGNMENT-DELEGATION

No right or interest in this contract will be assigned or delegation of any obligation made by the Contractor without the written permission of the City. Any attempted assignment or delegation by the Contractor will be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

#### 13. WAIVER

No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

#### 14. INTERPRETATION-PAROL EVIDENCE

This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their contract. No course of prior dealings between the parties and no usage of the trade will be relevant to supplement or explain any term used in this contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this contract even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this contract, the definition contained in the Code is to control.

#### 15. APPLICABLE LAW

The law of the State of Texas will control this contract along with any applicable provisions of Federal law or the City Charter or any ordinance of the City of El Paso.

#### 16. ADVERTISING

Contractor will not advertise or publish, without the City's prior consent, the fact that the City has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

#### 17. AVAILABILITY OF FUNDS

The awarding of this contract is dependent upon the availability of funding. In the event that funds do not become available the contract may be terminated or the scope may be amended. A 30-day written notice will be given to the vendor and there will be no penalty nor removal charges incurred by the City.

#### 18. VENUE

Both parties agree that venue for any litigation arising from this contract will lie in El Paso, El Paso County, Texas.

#### 19. ADDITIONAL REMEDY FOR HEALTH OR SAFETY VIOLATION

If the Purchasing Director determines that Contractor's default constitutes an immediate threat to the health or safety of City employees or members of the public he may give written notice to Contractor of such determination giving Contractor a reasonable opportunity to cure the default which shall be a period of time not less than 24 hours. If the Contractor has not cured the violation within the time stated in the notice, the City shall have the right to terminate the contract immediately and obtain like services as necessary to preserve or protect the public health or safety from another vendor in substitution for those due from the Contractor at a cost determined by reasonable informal procurement procedures. The City may recover the difference between the cost of substitute services and the contract price from Contractor as damages. The City may deduct the damages from Contractor's account for services rendered prior to the Notice of Violation or for services rendered by Contractor pursuant to a different contract or pursue any other lawful means of recovery. The failure of the City to obtain substitute services and charge the Contractor under this clause is not a bar to any other remedy available for default.

#### 20. INSURANCE REQUIREMENTS [6/29/2019]

Commercial General Liability:

Written on an occurrence form. (There may be situations where a "claims-made" form may be our only option but it is best we require an occurrence form including all the usual coverage known as:

- Premises/operations liability
- Products/completed operations
- Personal/advertising injury
- Contractual liability
- Broad-form property damage
- Independent contractor liability
- Explosion, Collapse and Underground (XCU)
- Cyber Liability/Data/Breach/Ransom

Minimum Limits of Liability

\$1,000,000 Bodily Injury/\$1,000,000 Property Damage per occurrence

Commercial General Liability Exclusion Removed/Railroad Protective Liability/Contractual Liability-Railroads

\$1,000,000 Bodily Injury/\$1,000,000 Property Damage Liability per occurrence

Required when a contractor is going to work on or within 50 feet of any "railroad property"

Commercial Automobile Liability;

\$1,000,000 Bodily Injury/\$500,000 Property Damage Liability per occurrence

Workers' Compensation

Statutory Coverage

\$500,000 Employers Liability

Professional (Errors & Omissions) Liability (if required)

\$1,000,000 per occurrence

Umbrella or Excess Liability Insurance (if required)

\$5,000,000 per occurrence

The City, its officials, employees, agents and contractors shall be named as additional insureds and contain a "blanket waiver of subrogation" clause in favor of the City.

The contractor/vendor and their subcontractors' insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the City, its officials, employees, agents and contractors shall be in excess of the contractor/vendor's or contractor/vendor's subcontractor's insurance and shall not contribute to the contractor/vendor's or contractor/vendor's subcontractor's insurance.

Prior to undertaking any work under this Agreement, the contractor/vendor, at no expense to the City, shall furnish to the City copy of a certificate of insurance with an actual copy of policy and original endorsements affecting coverage for each of the insurance policies provided in this exhibit. Any deductibles or self-insured retentions must be declared to, and approved by the City.

Notices and Certificates required by this clause shall be provided to:

City of El Paso

Purchasing & Strategic Sourcing Department

300 N. Campbell, 1th Floor

El Paso, Texas 79901-1153

Attn: Paula Salas, Purchasing Agent

Please refer to Bid Number/Contract Number and Title in all correspondence.

Failure to submit insurance certification may result in contract cancellation.

## 21. CONTRACT ADMINISTRATION

The point of contact for the administration of this Contract, on behalf of the City of El Paso, is:

Margarita Muñoz

Comptroller

Telephone: (915) 212-1174

Email: MunozMM@elpasotexas.gov

Note any contact with the Contract Administrator prior to award of this contract is a violation of the Cone of Silence (2.3.1 Cone of Silence/Anti Lobbying Policy) and your submission may be subject to disqualification.

Mail correspondence should be addressed to:

City of El Paso

Purchasing & Strategic Sourcing Department

300 N. Campbell, 1th Floor

El Paso, TX 79901-1153

Attn: Paula Salas, Purchasing Agent

Please refer to Bid Number/Contract Number and Title in all correspondence

## 22. COMPLIANCE WITH NON-DISCRIMINATION LAWS

The Contractor agrees that it, its employees, officers, agents, and subcontractors, will comply with all applicable federal and state laws and regulations and local ordinances of the City of El Paso in the performance of this Contract, including, but not limited to, the American with Disabilities Act, the Occupational Safety and Health Act, or any environmental laws.

The Contractor further agrees that it, its employees, officers, agents, and subcontractors will not engage in any employment practices that have the effect of discriminating against employees or prospective employees because of sex, race, religion, age, disability, ethnic background or national origin, or political belief or affiliation of such person, or refuse, deny, or withhold from any person, for any reason directly or indirectly, relating to the race, gender, gender identity, sexual orientation, color, religion, ethnic background or national origin of such person, any of the accommodations, advantages, facilities, or services offered to the general public by place of public accommodation.

## 23. CONTRACTING INFORMATION [1/10/2020]

The Contractor must preserve all contracting information related to this Contract as provided by the records retention schedule requirements applicable to the City for the duration of this Contract.

Contractor will promptly provide the City any contracting information related to this Contract that is in the custody or possession of the Contractor on request of the City. On completion of this Contract, Contractor will either provide at no cost to the City all contracting information related to this Contract that is in the custody or possession of the Contractor or preserve the contracting information related to this Contract as provided by the records retention requirements applicable to the City.

## 24. RIGHT TO AUDIT

The Contractor agrees that the City shall, until the expiration

of three (3) years after final payment under this Contract, have access to and the right to examine and copy any directly pertinent books, computer and digital files, documents, papers, and records of the Contractor involving transactions relating to this Contract. Contractor agrees that the City shall have access during normal working hours to all necessary Contractor facilities, and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. The City shall give Contractor reasonable advance notice of intended audits. The City will pay Contractor for reasonable costs of any copying the City performs on the Contractor's equipment or requests the Contractor to provide. The Contractor agrees to refund to the City any overpayments disclosed by any such audit. The Contractor agrees that it will include this requirement into any subcontract entered into in connection with this Contract.

#### 25. CONTRACTOR TO PACKAGE GOODS

The Contractor will package goods according to good commercial practice. Each shipping container will be clearly and permanently marked as follows: (a) Contractor's name and address; (b) Consignee's name, address and purchase order; (c) Container number and total number of containers, e.g., "box 1 of 4 boxes"; and (d) the number of the container bearing the packing slip. The Contractor will bear cost of packaging unless otherwise provided. Goods will be suitably packed to secure lowest transportation costs and to conform to requirements of common carriers and any applicable specifications. The City's count or weight will be final and conclusive on shipments not accompanied by packing lists.

#### 26. SHIPMENT UNDER RESERVATION PROHIBITED

The Contractor is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of goods.

#### 27. DELIVERY TERMS AND TRANSPORTATION CHARGES

F.O.B. Destination Freight Prepaid unless delivery terms are specified otherwise in bid; the City agrees to reimburse the Contractor for transportation costs in the amount specified in the Contractor's bid, or actual costs, whichever is lower, if the quoted delivery terms do not include transportation costs, provided the City will have the right to designate what method of transportation will be used to ship the goods.

#### 28. TITLE & RISK OF LOSS

The title and risk of loss of the goods will not pass to the City until the City actually receives and takes possession of the goods at the point or points of delivery.

##### RIGHT OF INSPECTION

The City will have the right to inspect the goods at delivery before accepting them.

#### 29. NO REPLACEMENT OF DEFECTIVE TENDER

Every tender or delivery of goods must fully comply with all

provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this will constitute a breach and the Contractor will not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Contractor may reasonably notify the City of his intention to cure and may then make a conforming tender within the contract time but not afterward.

#### 30. PLACE OF DELIVERY

The place of delivery will be that set forth in the solicitation. The terms of this contract are "no arrival, no sale."

#### 31. WARRANTY-PRODUCT

The Contractor will not limit or exclude any implied warranties and any attempt to do so will render this contract voidable at the option of the City. Contractor warrants that the goods furnished will conform to the specifications, drawings and descriptions listed in the bid invitation, and to the sample(s) furnished by Contractor, if any. In case of a conflict between the specifications, drawings and descriptions, the drawings and descriptions will govern.

#### 32. SAFETY WARRANTY

Contractor warrants that the product sold to the City will conform to the standards promulgated by the US Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, the City may return the product for correction or replacement at the Contractor's expense. In the event the Contractor fails to make the appropriate correction within reasonable time, correction made by the City will be at the Contractor's expense.

#### 33. NO WARRANTY BY THE CITY AGAINST INFRINGEMENTS

As part of this contract for sale Contractor agrees to ascertain whether goods manufactured according to the specifications attached to this contract will cause the rightful claim of any third person by way of infringement or the like. The City makes no warranty that the production of goods according to the specification will not give rise to such a claim and in no event will the City be liable to the Contractor for indemnification if Contractor is sued on the grounds of infringement or the like. If Contractor is of the opinion that an infringement or the like will result, he will notify the City to this effect in writing within two weeks after the signing of this contract. If the City does not receive notice and is subsequently held liable for the infringement or the like, the Contractor will save the City harmless (if the Contractor in good faith ascertains that production of goods according to the specifications will result in infringement or the like, this contract will be null and void except that the City will pay the Contractor the reasonable cost of his search as to infringements).

#### 34. TERRORIST ORGANIZATIONS & BOYCOTTING OF ISRAEL

Vendor hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State. Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary or parent company of Vendor, if any (the "Vendor Companies"), boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this

Purchase Order. For purposes of this Purchase Order, the term "boycott" shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory.

35. DISCRIMINATION AGAINST FIREARM & AMMUNITION INDUSTRIES [Rev 2021-09-23]

Vendor certifies and verifies that (1) neither Vendor, nor any affiliate, subsidiary or parent company of Vendor, if any (the "Vendor Companies"), does not have a written or unwritten internal practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on its status as a firearm entity or

firearm trade association and (2) Vendor agrees that Vendor and Vendor Companies will not discriminate during the term of the contract against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association during the term of this agreement pursuant to the provisions of Texas Government Code Chapter 2274. For purposes of this Agreement, the term "Discriminate against a firearm entity or firearm trade association" shall have the meaning defined in Texas Government Code Chapter 2274.

36. BOYCOTTING OF ENERGY COMPANIES [Rev 2021-09-23]

Vendor certifies and verifies that it is not a company identified on the Texas Comptroller's list of companies known to boycott energy companies, as defined in Texas Government Code Chapter 809. Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary or parent company of Vendor, if any (the "Vendor Companies"), boycotts energy companies and Vendor agrees that Vendor and Vendor Companies will not boycott energy companies during the term of this agreement pursuant to the provisions of Texas Government Code Chapter 809. For purposes of this Agreement, the term "boycott energy company" shall have the meaning defined in Texas Government Code Chapter 809.

## 8.1 Title VI Contract Provisions

Subrecipients of federal financial assistance must ensure that the clauses of Appendix A of the U.S. DOT Standard Title VI Assurances are inserted in every contract subject to the Act and the Regulations and that Form FHWA-1273 be physically attached to all federal-aid construction contracts of \$10,000 or more.

### NOTE TO CONTRACTORS:

**FORM 1273** and **Appendix A** (attached) must be inserted in all subcontractor contracts.

The successful bidder will be required to provide a copy of each of its subcontractors (all tiers) to verify that the above mentioned provisions are included

## 8.2 APPENDIX A

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

(1) **Compliance with Regulations:** The contractor 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:** The Contractor, 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. The contractor 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 the contractor 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 the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) **Information and Reports:** The contractor 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 the City of El Paso to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the City of El Paso, as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the City of El Paso shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:

- a. Withholding of payments to the contractor under the contract until the contractor complies, and / or
- b. Cancellation, termination or suspension of the contract in whole or in part.

(6) **Incorporation of Provisions:** The contractor 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. The contractor shall take such action with respect to any subcontract or procurement as the City of El Paso may direct as a means of enforcing such provisions including sanctions for non- compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the contractor may request the City of El Paso to enter into such litigation to protect the interests of the City of El Paso, and in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States



## 8.3 Required Contract Provisions

### FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government Wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

#### ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term

Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

## II. NON DISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO

program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

#### **6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified

and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

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

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the

contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a

weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not

expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **2. Withhold ing**

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally- assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## **3. Payrolls and basic records**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be

included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees

##### a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee

program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

d.

## **V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR

4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier

subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

## **VI. SUBLETTING OR ASSIGNING THE CONTRACT**

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not

applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## **VII. SAFETY: ACCIDENT PREVENTION**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false



representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

## **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

## **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

### **1. Instructions for Certification – First Tier Participants:**

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

### **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**



a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it

shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

## **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

3. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

5. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

## **ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State

Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

## EXHIBIT "B"

## **SCOPE OF WORK**

### **Scope of Work and Minimum Requirements**

In general, the Municipal Advisor shall submit to the City recommendations on debt instruments under consideration including such elements as the date of issue, interest payment dates, schedule of principal maturities, options of prior payments, security provisions and any other additional provisions designed to make the issue attractive to investors. Information to make these recommendations will be provided by City staff. Submitted recommendations should be based on the professional judgment of the Municipal Advisor with the goal of designing debt instruments, which can be sold under terms most advantageous to the City and at the lowest interest cost consistent with other considerations.

The City also strives to maintain good working relationships with bond rating agencies as well as disclose financial reports and information to these agencies and to the public. The Municipal Advisor will assist the City by preparing professional ratings presentations as well as advising the City on a semi-annual basis on strategies about how to maintain and/or upgrade the City's ratings from these agencies.

The City requests that the Municipal Advisor provide a brief description of the firm, how it is organized, and how its resources will be utilized on behalf of the City. Additionally, the overview should include how the Municipal Advisors will approach the aforementioned recommendations and other services that the firm may provide as the Municipal Advisor of the City. The Municipal Advisor shall take into account the Debt Management Policy adopted by the City of El Paso. (See Attachment A)

The overview should also include but not be limited to:

- Relevant experience of the firm and the individuals assigned to the issuer;
- Identification of the individual in charge of day-to-day management and the percentage of time committed for each individual on the account;
- The respondent's ideas on how the issuer should approach the financing, including the structure of the offering, credit-rating strategy, and investor marketing strategy;
- The analytic capability of the firm and assigned individuals and ongoing training and educational services that could be provided to the City of El Paso.
- Description of the firm's access to sources of current market information to assist in the pricing of negotiated sales and information to assist the City in planning and executing competitive sales;
- The level and types of insurance carried, including the deductible amount, to cover errors and omissions, improper judgments, or negligence; and
- Any finder's fees, fee splitting, or other contractual arrangements of the Municipal Advisor that could present a real or perceived conflict of interest, as well as any pending investigation of the Municipal Advisor or enforcement or disciplinary actions taken within the past three years by the SEC or other regulatory bodies.
- Disclosure of the firm's affiliation or relationship with any broker-dealer.

## **ADDITIONAL REQUIREMENTS**

In addition to the previous information described, the selected Municipal Advisor shall consider the following, based on their assessment, to further satisfy the requirements of the Services Overview and needs of the Deputy City Manager.

### **Component I – Experience in Municipal Advisory Services**

The firm should have relevant experience with financings of the City of El Paso or comparable issuers and financings of similar size, types and structures, including financing in the State of Texas. The firm should provide a description, including resumes, of the professional(s) that will provide direct municipal advisory services to the City, including the name of the lead consultant for this account and his/her primary office location. The primary individual assigned to the City should be a licensed public finance professional. The firm must be licensed in the State of Texas and should be registered with the U.S. Securities and Exchange Commission (SEC) and the Municipal Securities Rulemaking Board (MSRB).

The firm should discuss the firm's municipal advisory experience necessary to assist the City of El Paso with either competitive or negotiated sales. The firm should indicate any specific firm resources available to the proposed team that differentiates the firm from any competing firms.

For the past five years, indicate the firm's ranking as a Municipal Advisor for the following categories (indicate both total dollar volume and number of issues):

- General National Municipal Advisor
- Municipal Advisor in the State of Texas
- Municipal Advisor for Texas Cities

References from at least three other municipal clients, preferably Texas municipalities for whom similar services have been provided, are requested.

### **Component II – Local Support and Knowledge**

A critical aspect of providing quality service is access to the Municipal Advisor. The firm should provide a brief description of the firm's presence and knowledge of the El Paso area tax-exempt bond market and resources dedicated to the El Paso area. The selected firm will provide the location of the office responsible for the day-to-day contact, hours of operation, secondary offices and other contact support to be provided.

Describe the firm's experience and/or knowledge of the City's political, economic, financial, legal or other issues and environment that may affect a proposed financing. Describe the firm's familiarity with GFOA's Recommended Practices relating to the selling of bonds and the selection of finance professionals. Please provide any other information that the City should consider in selecting its Municipal Advisor.

### Component III – Financing Techniques

The Municipal Advisor will outline the overall approach to assessing the needs of the City. An example of a quantitative analysis must be included in the proposal. Describe the firm's depth of knowledge of Texas Cities financing techniques and provide a list of the municipal tax-exempt and taxable financings that have been completed for the last 5 years for which the firm served as municipal advisor for cities in the State of Texas. Please include issuer, issue description, and par amount.

### Component IV – Trading Desk Information

If applicable, a complete description of the firm's short and long-term municipal underwriting and trading desk activities should be included in the proposal. If the firm does not have its own underwriting desk, then describe other resources the firm will use to provide pertinent pricing and market information.

### Work Plan

Include a brief narrative description of the firm's organization and how the organization anticipates best being able to meet the specifications outlined herein in terms of methodology and solutions in performing the services described. The work plan should address the Additional Requirements.

### **SCHEDULE FOR WORK**

#### A. Quantitative Analysis

As requested by the Deputy City Manager, the Municipal Advisor shall provide any quantitative analysis as needed within 10 days of the request. If the Municipal Advisor is unable to fulfill such request, a proposed time schedule and a list of all information to be provided to the firm and dates that the data will be required.

#### B. Draft Reports

As requested by the Deputy City Manager, the Municipal Advisor will prepare and submit drafts of the reports and recommendations to management available for review as is mutually agreeable to the Deputy City Manager and the Municipal Advisor.

#### C. Work Schedule

The Deputy City Manager, or designee, shall determine the work schedule for a particular debt issuance or related project.

#### D. Ratings Presentations

For every rating presentation before the City's rating agencies, the Municipal Advisor will take the lead in preparing a thorough and complete analysis to present to the City's rating agencies. Additionally, the City requests a semi-annual review of its credit rating position

and requests the Municipal Advisor to identify potential strategies to maintain and/or upgrade the City's current bond ratings.

E. Continuing Disclosure Requirements

Timely disclosure of annual financial information is critical to ensuring that the City maintains good relationships with its bond rating agencies. The Municipal Advisor is responsible for coordinating and obtaining necessary information to comply with all continuing disclosure requirements on behalf of the City. Any MSRB fees imposed upon municipal advisors should not be passed through to the City.

F. Presentations to Council

As requested by the Deputy City Manager, the Municipal Advisor will make presentations to City Council and others as necessary. This will generally require extensive preparation as well as submittal of professionally prepared reports no later than seven days prior to the actual Council presentation date.

**TEAM'S EXPERIENCE, PAST PERFORMANCE, FINANCIAL CAPABILITY AND LITIGATIONS**

Describe any other experiences related to the work described in this RFQ; in particular, experiences related to the work described. Describe any prior or pending litigation, either civil or criminal, involving a governmental agency or which may affect the performance of the service to be rendered in which the consultant, any of its employees or subcontractors or sub consultants is or has been involved within the last three years.

**OTHER DELIVERABLES**

Provide a high quality, written document to illustrate a presentation to City Council or other governing body that the consulting firm has prepared and presented.

## EXHIBIT "C"



### Fee Proposal

Base	\$ <u>25,000.00</u>
For the first \$ _____ of bonds issued	Plus \$1.30 per \$1,000 for the next \$75,000,000
Thereafter	Plus \$1.15 per \$1,000 thereafter



Legislation Text

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File #: 22-1119, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

Public Health, Hector I. Ocaranza, (915) 212-6502

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

The linkage to Strategic Plan is subsection 8.1 - Deliver prevention, intervention and mobilization services to promote a healthy, productive and safe community.

**Award Summary:**

Discussion and action of the award of Solicitation No. 2022-0039 Security Guard Services to Night Eyes Protective Services, Inc., for an initial term of three (3) years for an estimated amount of \$759,504.00. The award also includes a two (2) year option for an estimated amount of \$506,336.00. The total contract value is, including the initial term plus option is five (5) years, for an estimated amount of \$1,265,336.00.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$197,536.32 for the initial term, which represents a 355.08% increase due to an increase in sites resulting in additional hours and an increase in hourly rates.

Department:	Health
Award to:	Night Eyes Protective Services, Inc.
	El Paso, TX
Item(s):	ALL
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$ 253,168.00
Initial Term Estimated Award:	\$ 759,504.00 (3 years)
Option Term Estimated Award:	\$ 506,336.00 (2 years)
Total Estimated Award:	\$1,265,840.00 (5 years)
Account No.:	522120 - 341 - 1000 - 41170
Funding Source:	General Funds
District(s):	All

This is a Best Value procurement contract.

The Purchasing & Strategic Sourcing and the Public Health Departments recommend award as indicated to Night Eyes Protective Services, Inc., the highest ranked bidder based on evaluation factors established for this procurement. In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Dr. Hector I. Ocaranza MD, Interim Director of Health, (915)212-6502  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** 8: Nurture and Promote a Healthy, Sustainable Community

**SUBGOAL:** 8.1 – Deliver prevention, intervention and mobilization services to promote a healthy, productive and safe community.

**SUBJECT:**

Discussion and action of the award of Solicitation No. 2022-0039 Security Guard Services to Night Eyes Protective Services, Inc., for an initial term of three (3) years for an estimated amount of \$759,504.00. The award also includes a two (2) year option for an estimated amount of \$506,336.00. The total contract value is, including the initial term plus option is five (5) years, for an estimated amount of \$1,265,840.00.

**BACKGROUND / DISCUSSION:**

This contract will allow the Health Department to provide Security Guard Services to Public Health facilities throughout the City.

**SELECTION SUMMARY:**

Solicitation was advertised on January 11, 2022 and January 18, 2022. The solicitation was posted on City website on January 11, 2022. The email (Purmail) notification was sent out on January 13, 2022. There were a total forty-seven (47) viewers online; eight (8) bids were received; three (3) being local suppliers.

**CONTRACT VARIANCE:**

The difference based in comparison to the previous contract is as follows: An increase of \$197,536.32 for the initial term, which represents a 355.08% increase due to an increase in sites resulting in additional hours and an increase in hourly rates.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

NA

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$759,504.00  
Funding Source: General Funds  
Account: 522120 – 341 – 1000 – 41170

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  X  YES   NO**

**PRIMARY DEPARTMENT:** Health Department

**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

2022-0039 Armed Security Guards

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

**DEPARTMENT HEAD:**



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Dr. Hector I. Ocaranza, MD, Interim Director of Public Health

**COUNCIL PROJECT FORM  
(BEST VALUE)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of **August 30, 2022**.

**STRATEGIC GOAL NO. 8: Nurture and Promote a Healthy, Sustainable Community**

The linkage to Strategic Plan is subsection 8.1 – Deliver prevention, intervention and mobilization services to promote a healthy, productive and safe community.

**Award Summary:**

Discussion and action of the award of Solicitation No. 2022-0039 Security Guard Services to Night Eyes Protective Services, Inc., for an initial term of three (3) years for an estimated amount of \$759,504.00. The award also includes a two (2) year option for an estimated amount of \$506,336.00. The total contract value is, including the initial term plus option is five (5) years, for an estimated amount of \$1,265,336.00.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$197,536.32 for the initial term, which represents a 355.08% increase due to an increase in sites resulting in additional hours and an increase in hourly rates.

Department:	Health
Award to:	Night Eyes Protective Services, Inc. El Paso, TX
Item(s):	ALL
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$ 253,168.00
Initial Term Estimated Award:	\$ 759,504.00 (3 years)
Option Term Estimated Award	\$ 506,336.00 (2 years)
Total Estimated Award:	\$1,265,840.00 (5 years)
Account No.:	522120 – 341 – 1000 - 41170
Funding Source	General Funds
District(s):	All

This is a Best Value procurement contract.

The Purchasing & Strategic Sourcing and the Public Health Departments recommend award as indicated to Night Eyes Protective Services, Inc., the highest ranked bidder based on evaluation factors established for this procurement. In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*

								Committee Scoresheet	
CITY OF EL PASO BV SCORESHEET									
PROJECT: 2022-0039 Security Guard Services									
Evaluation of Submittal									
	MAX POINTS	Blackstone Security Services of Texas, Inc.	Boutchantharaj Corporation dba DFW Security Protective Force	L & P Global Security, LLC	Mike Garcia Merchant Security, LLC.	Night Eyes Protective Services, Inc.	Sun City Security Service, Inc.	TriCorps Security, Inc	Vets Securing America, Inc.
Factor A - Offeror's Fee Proposal									
GROUP 1 - ARMED SECURITY GUARDS	35	\$ 339,556.80	\$ 353,944.80	\$ 460,416.00	\$ 242,797.50	\$ 287,760.00	\$ 283,083.90	\$ 296,752.50	\$ 411,359.85
		25.03	24.01	18.46	35.00	29.53	30.02	28.64	20.66
GROUP 2 - UNARMED SECURITY GUARDS		\$ 534,418.56	\$ 663,137.28	\$ 801,964.80	\$ 429,624.00	\$ 471,744.00	\$ 460,961.28	\$ 522,288.00	\$ 760,294.08
		28.14	22.68	18.75	35.00	31.88	32.62	28.79	19.78
Factor B - Offeror's Experience and Reputation									
	15	13.67	13.67	12.00	12.33	14.00	13.33	13.00	13.67
Factor C - References									
	15	3.00	10.00	13.00	10.00	13.00	10.00	15.00	4.00
Factor D – Employee Medical Benefits and Incentives									
	10	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
Factor E - Work Plan									
	25	20.00	22.67	21.33	21.33	23.00	20.33	19.33	23.00
TOTAL SCORE - Group 1	100	63.69	72.34	66.79	80.67	81.53	75.69	77.97	63.32
Rank		7	5	6	2	1	3	4	8
TOTAL SCORE - Group 2	100	66.80	71.01	67.08	80.67	83.88	78.29	78.12	62.44
Rank		7	5	6	2	1	3	4	8



# CITY OF EL PASO BID TABULATION FORM



**Project Name: Security Guard Services Public Health Department**  
**Bid Opening Date: February 9, 2022**

**Solicitation #: 2022-0039**  
**Department: Public Health**

		Blackstone Security Services of Texas, Inc. Phoenix, TX				Boutcharantharaj Corporation dba DFW Security Protective Force (DFW) Fort Worth, TX				L&P Global Security, LLC. Frisco, TX			
GROUP 1 – Armed Security Guards		Bidder 1 of 8				Bidder 2 of 8				Bidder 3 of 8			
ITEM No.	Location	Annual Estimated Hours  (A)	Hourly Bill Rate  (B)	Estimated Annual Total (C)  (A X B = C)	Extended Total Amount (D)  (C X 3 = D)	Annual Estimated Hours  (A)	Hourly Bill Rate  (B)	Estimated Annual Total (C)  (A X B = C)	Extended Total Amount (D)  (C X 3 = D)	Annual Estimated Hours  (A)	Hourly Bill Rate  (B)	Estimated Annual Total (C)  (A X B = C)	Extended Total Amount (D)  (C X 3 = D)
1	Armed Services Monday – Friday  Department of Public Health 5115 El Paso Drive	5,720	\$18.88	\$107,993.60	\$323,980.80	5,720	\$19.68	\$112,569.60	\$337,708.80	5,720	\$25.60	\$146,432.00	\$439,296.00
2	Armed Services Saturday  Department of Public Health 5115 El Paso Drive	275	\$18.88	\$5,192.00	\$15,576.00	275	\$19.68	\$5,412.00	\$16,236.00	275	\$25.60	\$7,040.00	\$21,120.00
Total Group 1 (Items 1 & 2)				\$113,185.60	\$339,556.80			\$117,981.60	\$353,944.80			\$153,472.00	\$460,416.00
GROUP 2 – Unarmed Security Guards													
1	Unarmed Services Monday – Friday  Department of Public Health 9341 Alameda	2,340	\$15.86	\$37,112.40	\$111,337.20	2,340	\$19.68	\$46,051.20	\$138,153.60	2,340	\$23.80	\$55,692.00	\$167,076.00
2	Unarmed Services Saturday  Department of Public Health 9341 Alameda	468	\$15.86	\$7,422.48	\$22,267.44	468	\$19.68	\$9,210.24	\$27,630.72	468	\$23.80	\$11,138.40	\$33,415.20
3	Unarmed Services Monday – Friday  Department of Public Health 9566 Railroad	2,340	\$15.86	\$37,112.40	\$111,337.20	2,340	\$19.68	\$46,051.20	\$138,153.60	2,340	\$23.80	\$55,692.00	\$167,076.00
4	Unarmed Services Saturday  Department of Public Health 9566 Railroad	468	\$15.86	\$7,422.48	\$22,267.44	468	\$19.68	\$9,210.24	\$27,630.72	468	\$23.80	\$11,138.40	\$33,415.20

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_\_\_/s/\_\_\_\_\_

Date: 3/29/2022





# CITY OF EL PASO BID TABULATION FORM



**Project Name:** Security Guard Services Public Health Department  
**Bid Opening Date:** February 9, 2022

**Solicitation #:** 2022-0039  
**Department:** Public Health

		Blackstone Security Services of Texas, Inc. Phoenix, TX				Boutcharantharaj Corporation dba DFW Security Protective Force (DFW) Fort Worth, TX				L&P Global Security, LLC. Frisco, TX			
GROUP 2 – Unarmed Security Guards		Bidder 1 of 8				Bidder 2 of 8				Bidder 3 of 8			
ITEM No.	Location	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)
5	Unarmed Services Monday – Friday Department of Public Health 9341 Alameda	2,340	\$15.86	\$37,112.40	\$111,337.20	2,340	\$19.68	\$46,051.20	\$138,153.60	2,340	\$23.80	\$55,692.00	\$167,076.00
6	Unarmed Services Saturday Department of Public Health 9341 Alameda	468	\$15.86	\$7,422.48	\$22,267.44	468	\$19.68	\$9,210.24	\$27,630.72	468	\$23.80	\$11,138.40	\$33,415.20
7	Unarmed Services Monday – Friday Department of Public Health 9566 Railroad	2,340	\$15.86	\$37,112.40	\$111,337.20	2,340	\$19.68	\$46,051.20	\$138,153.60	2,340	\$23.80	\$55,692.00	\$167,076.00
8	Unarmed Services Saturday Department of Public Health 9566 Railroad	468	\$15.86	\$7,422.48	\$22,267.44	468	\$19.68	\$9,210.24	\$27,630.72	468	\$23.80	\$11,138.40	\$33,415.20
Total Group 2 (Items 1 - 8)				\$178,139.52	\$534,418.56			\$221,045.76	\$663,137.28			\$267,321.60	\$801,964.80

**NOTE:** The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

Approved: \_\_\_\_\_/s/\_\_\_\_\_

Date: 3/29/2022



# CITY OF EL PASO BID TABULATION FORM



**Project Name:** Security Guard Services Public Health Department  
**Bid Opening Date:** February 9, 2022

**Solicitation #:** 2022-0039  
**Department:** Public Health

	Blackstone Security Services of Texas, Inc. Phoenix, TX  Bidder 1 of 8	Boutcharantharaj Corporation dba DFW Securty Protective Force (DFW) Fort Worth, TX  Bidder 2 of 8	L&P Global Security, LLC. Frisco, TX  Bidder 3 of 8
<u>OPTION TO EXTEND THE TERM OF THE AGREEMENT</u>			
THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND.			
BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:			
TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO OPTION OFFERED	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
AMENDMENTS ACKNOWLEDGED:	Yes	Yes	Yes
BIDS SOLICITED: 55    LOCAL BIDS SOLICITED: 47    BIDS RECEIVED: 5    LOCAL BIDS RECEIVED: 3    NO BID: 0			

**NOTE:** The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

Approved: \_\_\_\_\_/s/\_\_\_\_\_

Date: 3/29/2022



# CITY OF EL PASO BID TABULATION FORM



**Project Name: Security Guard Services Public Health Department**  
**Bid Opening Date: February 9, 2022**

**Solicitation #: 2022-0039**  
**Department: Public Health**

		Mike Garcia Merchant Security, LLC El Paso, TX				Night Eyes Protective Services, Inc. El Paso, TX				Sun City Security Service, Inc. El Paso, TX			
GROUP 1 – Armed Security Guards		Bidder 4 of 8				Bidder 5 of 8				Bidder 6 of 8			
ITEM No.	Location	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)
1	Armed Services Monday – Friday Department of Public Health 5115 El Paso Drive	5,720	\$13.50	\$77,220.00	\$231,660.00	5,720	\$16.00	\$91,520.00	\$274,560.00	5,720	\$15.74	\$90,032.80	\$270,098.40
2	Armed Services Saturday Department of Public Health 5115 El Paso Drive	275	\$13.50	\$3,712.50	\$11,137.50	\$275.00	\$16.00	\$4,400.00	\$13,200.00	\$275.00	\$15.74	\$4,328.50	\$12,985.50
Total Group 1 (Items 1 & 2)				\$80,932.50	\$242,797.50			\$95,920.00	\$287,760.00			\$94,361.30	\$283,083.90
GROUP 2 – Unarmed Security Guards													
1	Unarmed Services Monday – Friday Department of Public Health 9341 Alameda	2,340	\$12.75	\$29,835.00	\$89,505.00	2,340	\$14.00	\$32,760.00	\$98,280.00	2,340	\$13.68	\$32,011.20	\$96,033.60
2	Unarmed Services Saturday Department of Public Health 9341 Alameda	468	\$12.75	\$5,967.00	\$17,901.00	468	\$14.00	\$6,552.00	\$19,656.00	468	\$13.68	\$6,402.24	\$19,206.72
3	Unarmed Services Monday – Friday Department of Public Health 9566 Railroad	2,340	\$12.75	\$29,835.00	\$89,505.00	2,340	\$14.00	\$32,760.00	\$98,280.00	2,340	\$13.68	\$32,011.20	\$96,033.60
4	Unarmed Services Saturday Department of Public Health 9566 Railroad	468	\$12.75	\$5,967.00	\$17,901.00	468	\$14.00	\$6,552.00	\$19,656.00	468	\$13.68	\$6,402.24	\$19,206.72

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_\_\_/s/\_\_\_\_\_

Date: 3/29/2022



## CITY OF EL PASO BID TABULATION FORM



**Project Name:** Security Guard Services Public Health Department  
**Bid Opening Date:** February 9, 2022

**Solicitation #:** 2022-0039  
**Department:** Public Health

		Mike Garcia Merchant Security, LLC El Paso, TX				Night Eyes Protective Services, Inc. El Paso, TX				Sun City Security Service, Inc. El Paso, TX			
GROUP 2 – Unarmed Security Guards		Bidder 4 of 8				Bidder 5 of 8				Bidder 6 of 8			
ITEM No.	Location	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)
5	Unarmed Services Monday – Friday Department of Public Health 9341 Alameda	2,340	\$12.75	\$29,835.00	\$89,505.00	2,340	\$14.00	\$32,760.00	\$98,280.00	2,340	\$13.68	\$32,011.20	\$96,033.60
6	Unarmed Services Saturday Department of Public Health 9341 Alameda	468	\$12.75	\$5,967.00	\$17,901.00	\$468.00	\$14.00	\$6,552.00	\$19,656.00	\$468.00	\$13.68	\$6,402.24	\$19,206.72
7	Unarmed Services Monday – Friday Department of Public Health 9566 Railroad	2,340	\$12.75	\$29,835.00	\$89,505.00	2,340	\$14.00	\$32,760.00	\$98,280.00	2,340	\$13.68	\$32,011.20	\$96,033.60
8	Unarmed Services Saturday Department of Public Health 9566 Railroad	468	\$12.75	\$5,967.00	\$17,901.00	\$468.00	\$14.00	\$6,552.00	\$19,656.00	\$468.00	\$13.68	\$6,402.24	\$19,206.72
Total Group 2 (Items 1 - 8)				\$143,208.00	\$429,624.00			\$157,248.00	\$471,744.00			\$153,653.76	\$460,961.28

**NOTE:** The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

Approved: \_\_\_\_\_/s/\_\_\_\_\_

Date: 3/29/2022



# CITY OF EL PASO BID TABULATION FORM



Project Name: Security Guard Services Public Health Department  
Bid Opening Date: February 9, 2022

Solicitation #: 2022-0039  
Department: Public Health

	Mike Garcia Merchant Security, LLC El Paso, TX  Bidder 4 of 8	Night Eyes Protective Services, Inc. El Paso, TX  Bidder 5 of 8	Sun City Security Service, Inc. El Paso, TX  Bidder 6 of 8
<b><u>OPTION TO EXTEND THE TERM OF THE AGREEMENT</u></b>  THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND. BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:			
TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NO OPTION OFFERED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AMENDMENTS ACKNOWLEDGED:	Yes	Yes	Yes
BIDS SOLICITED: 55    LOCAL BIDS SOLICITED: 47    BIDS RECEIVED: 5    LOCAL BIDS RECEIVED: 3    NO BID: 0			

NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

Approved: \_\_\_\_\_ /s/

Date: 3/29/2022



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Security Guard Services Public Health Department**  
**Bid Opening Date: February 9, 2022**

**Solicitation #: 2022-0039**  
**Department: Public Health**

		TriCorps Security, Inc. Clint, TX				Vets Securing America, Inc. San Antonio, TX							
GROUP 1 – Armed Security Guards		Bidder 7 of 8				Bidder 8 of 8							
ITEM No.	Location	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)				
1	Armed Services Monday – Friday Department of Public Health 5115 El Paso Drive	5,720	\$16.50	\$94,380.00	\$283,140.00	5,720	\$22.41	\$128,185.20	\$384,555.60				
2	Armed Services Saturday Department of Public Health 5115 El Paso Drive	275	\$16.50	\$4,537.50	\$13,612.50	\$275.00	\$32.49	\$8,934.75	\$26,804.25				
Total Group 1 (Items 1 & 2)				\$98,917.50	\$296,752.50			\$137,119.95	\$411,359.85				
GROUP 2 – Unarmed Security Guards													
1	Unarmed Services Monday – Friday Department of Public Health 9341 Alameda	2,340	\$15.50	\$36,270.00	\$108,810.00	2,340	\$20.99	\$49,116.60	\$147,349.80				
2	Unarmed Services Saturday Department of Public Health 9341 Alameda	468	\$15.50	\$7,254.00	\$21,762.00	468	\$30.43	\$14,241.24	\$42,723.72				
3	Unarmed Services Monday – Friday Department of Public Health 9566 Railroad	2,340	\$15.50	\$36,270.00	\$108,810.00	2,340	\$20.99	\$49,116.60	\$147,349.80				
4	Unarmed Services Saturday Department of Public Health 9566 Railroad	468	\$15.50	\$7,254.00	\$21,762.00	468	\$30.43	\$14,241.24	\$42,723.72				

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Approved: \_\_\_\_\_/s/\_\_\_\_\_

Date: 3/29/2022



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Security Guard Services Public Health Department**  
**Bid Opening Date: February 9, 2022**

**Solicitation #: 2022-0039**  
**Department: Public Health**

		TriCorps Security, Inc. Clint, TX				Vets Securing America, Inc. San Antonio, TX							
GROUP 2 – Unarmed Security Guards		Bidder 7 of 8				Bidder 8 of 8							
ITEM No.	Location	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)	Annual Estimated Hours (A)	Hourly Bill Rate (B)	Estimated Annual Total (C) (A X B = C)	Extended Total Amount (D) (C X 3 = D)				
5	Unarmed Services Monday – Friday Department of Public Health 9341 Alameda	2,340	\$15.50	\$36,270.00	\$108,810.00	2,340	\$20.99	\$49,116.60	\$147,349.80				
6	Unarmed Services Saturday Department of Public Health 9341 Alameda	468	\$15.50	\$7,254.00	\$21,762.00	468	\$30.43	\$14,241.24	\$42,723.72				
7	Unarmed Services Monday – Friday Department of Public Health 9566 Railroad	2,340	\$15.50	\$36,270.00	\$108,810.00	2,340	\$20.99	\$49,116.60	\$147,349.80				
8	Unarmed Services Saturday Department of Public Health 9566 Railroad	468	\$15.50	\$7,254.00	\$21,762.00	468	\$30.43	\$14,241.24	\$42,723.72				
Total Group 2 (Items 1 - 8)				\$174,096.00	\$522,288.00			\$253,431.36	\$760,294.08				

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Approved: \_\_\_\_\_ /s/

Date: 3/29/2022



# CITY OF EL PASO BID TABULATION FORM



Project Name: Security Guard Services Public Health Department  
Bid Opening Date: February 9, 2022

Solicitation #: 2022-0039  
Department: Public Health

	TriCorps Security, Inc. Clint, TX Bidder 7 of 8	Vets Securing America, Inc. San Antonio, TX Bidder 8 of 8	
<p><u>OPTION TO EXTEND THE TERM OF THE AGREEMENT</u></p> <p>THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND. BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:</p>			
TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
NO OPTION OFFERED	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
AMENDMENTS ACKNOWLEDGED:	Yes	Yes	
BIDS SOLICITED: 55    LOCAL BIDS SOLICITED: 47    BIDS RECEIVED: 5    LOCAL BIDS RECEIVED: 3    NO BID: 0			

NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

Approved: \_\_\_\_\_/s/\_\_\_\_\_

Date: 3/29/2022



2022-0039 Security Guard Services  
Bidder's List

ADVANCED SECURITY CONTRACTORS  
135 RIO WEST DR.  
EL PASO, TX 79932

ALL AMERICAN INTERNATIONAL  
SECURITY  
P. O. BOX 27109  
EL PASO, TX 79926-7109

ALLIED BARTON SECURITIES 7500  
VISCOUNT BLVD STE C66 EL PASO, TX  
79925

AMERICAN RANGERS SECURITY 316 N.  
CAROLINA DR  
EL PASO, TX 79915

AZAR ARMORED CAR INC 114 N.  
ZARAGOZA RD  
EL PASO, TX 79907

BLACKHAWK SECURITY SERVICES INC  
7362 REMCON CIR  
EL PASO, TX 79912

BLACKSTONE SECURITY SERVICES INC  
7618 BOEING, STE. I  
EL PASO, TX 79925

EL PASO LONE STAR SECURITY AGENCY  
ATTN: MANUEL V. CARLOS  
3510 LEE BLVD.  
EL PASO, TX 79936-1413

G4S SECURE SOLUTIONS (USA) INC.  
ATTN: KAY GLANCEY  
955 N. RESLER, STE. 104-109 EL PASO,  
TX 79912

J. DIAMOND GROUP INC  
17103 PRESTON RD STE 170  
DALLAS, TX 75248-1332

HUB ENTERPRISES INC.  
405 E. MADISON ST. BROUSSARD, LA  
79518

INVESTIGATING & SECURITY GUARD  
CO.  
ATTN: RAY BALDEMAR HERNANDEZ  
10541 GREENWAY AVENUE  
EL PASO, TX 79925

ITS COMMERCIAL SECURITY INC.  
P. O. BOX 52159 HOUSTON, TX 77052-  
2159

MIKE GARCIA MERCHANT SECURITY, INC.  
ATTN: MIKE GARCIA  
6000 WELCH SUITE 11 EL PASO, TX 79905

NIGHT EYES PROTECTIVE SERVICE  
2407 E. YANDELL DR  
EL PASO, TX 79903

PINKERTON SECURITY &  
INVESTIGATIONS ATTN: DAVID HOLGUIN  
1155 WESTMORELAND DRIVE STE 201  
EL PASO, TX 79925

PRIME VENDOR INC. LAURIE MELNICK  
4608 CEDAR AVENUE SUITE 106  
WILMINGTON, NC 28403

RUIZ PROTECTIVE SERVICE, INC.  
3417 MONTANA AVE.  
EL PASO, TX 79903

SECURITAS SECURITY  
1155 WESTMORELAND DR STE 201 EL  
PASO, TX 79925

TEXAS ENFORCER LLC 3407 DOUGLAS  
AVENUE EL PASO, TX 79903

WACKENHUT  
11420 CEDAR OAK DR EL PASO, TX  
79936

CONTINENTAL INVESTIGATION  
521 TEXAS AVE  
EL PASO, TX 79901

DFW SECURITY PROTECTIVE FORCE  
PO BOX 164127  
FORT WORTH, TX 76161

SUN CITY SECURITY SERVICE INC  
3711 ADMIRAL ST SUITE C  
EL PASO, TX 79925



Legislation Text

---

File #: 22-1007, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 8**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Jorge Olmos, (915) 212-1607

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

An Ordinance vacating a 1,947 square-foot portion of Grandview Avenue located within Block 7, Highland Park Addition, City of El Paso, El Paso County, Texas.

Subject Property: 1901 Grandview Ave.

Applicant: Physician Reliance, LLC SURW22-00003

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

**AGENDA DATE:** August 16, 2022

**PUBLIC HEARING DATE:** August 30, 2022

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Philip F. Etiwe, (915) 212-1553  
Jorge Olmos, (915) 212-1607

**DISTRICT(S) AFFECTED:** District 8

**STRATEGIC GOAL:** #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.2 Set one standard for infrastructure across the city

**SUBJECT:**

An Ordinance vacating a 1,947 square-foot portion of Grandview Avenue located within Block 7, Highland Park Addition, City of El Paso, El Paso County, Texas.

Subject Property: 1901 Grandview Ave.

Applicant: Physician Reliance, LLC SURW22-00003

**BACKGROUND / DISCUSSION:**

The applicant is requesting to vacate portion of right-of-way (ROW) to address an encroachment of an existing rock wall. The proposed vacation of the right-of-way (ROW) will not impact the pedestrian or automobile passage through Grandview Avenue. The City Plan Commission recommended 8-0 to approve the proposed right-of-way (ROW) vacation on March 10, 2022. The applicant has provided funds in the amount of \$4,844, the amount of the appraised market value of the right-of-way (ROW) being vacated. See attached staff report for additional information.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES NO

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division

**SECONDARY DEPARTMENT:** N/A

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

**DEPARTMENT HEAD:**

*Philip Etiwe*

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE VACATING A 1,947 SQUARE-FOOT PORTION OF GRANDVIEW AVENUE LOCATED WITHIN *BLOCK 7, HIGHLAND PARK ADDITION*, CITY OF EL PASO, EL PASO COUNTY, TEXAS**

**WHEREAS**, the abutting property owner has requested vacation of a 1,947 SQUARE-FOOT PORTION OF GRANDVIEW AVENUE located within *Block 7, Highland Park Addition*, City of El Paso, El Paso County, Texas; and,

**WHEREAS**, after public hearing the City Plan Commission has recommended a vacation of a 1,947 square foot portion of Grandview Avenue located within *Block 7, Highland Park Addition*, City of El Paso, El Paso County, Texas, and the City Council finds that said right of way is not needed for public use and should be vacated as recommended.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That, in consideration of the receipt by the City of El Paso of TWENTY-FIVE AND 00/DOLLARS (\$25.00) and other good and valuable consideration, the sufficiency of which is acknowledged, a 1,947 square foot portion of a Grandview Avenue located within *Block 7, Highland Park Addition*, City of El Paso, El Paso County, Texas, as further described in the attached metes and bounds description identified as Exhibit "A" and made a part hereof by reference, be and is hereby vacated, closed and abandoned.

In addition, the City Manager is authorized to sign an instrument quitclaiming all of the City's right, title and interest in and to such vacated right of way to Physician Reliance, LLC.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.


**THE CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leoser  
Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Russell T. Abeln  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Philip F. Etiwe, Director  
Planning and Inspections Department

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

THE STATE OF TEXAS    }  
                                     }  
COUNTY OF EL PASO    }                    **QUITCLAIM DEED**

That in consideration of the receipt by the **CITY OF EL PASO** of Ten Dollars (\$10.00) and other valuable consideration, the sufficiency of which is acknowledged, **THE CITY OF EL PASO**, has released and quitclaimed and by these presents does release and quitclaim unto Physician Reliance, LLC (the "Grantee"), all its rights, title, interest, claim and demand in and to the property which was vacated, closed and abandoned by Ordinance No. \_\_\_\_\_, passed and approved by the City Council of the City of El Paso and described as **A PORTION OF GRANDVIEW AVENUE OUT OF BLOCK 7, HIGHLAND PARK ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS**, which is more fully described in the attached metes and bounds description, identified as Exhibit "A" and in the attached survey identified as Exhibit "B" and made a part hereof by reference.

**WITNESS the following signatures and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

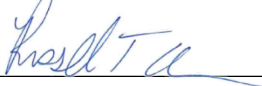
**CITY OF EL PASO:**

**ATTEST:**


\_\_\_\_\_  
Tomás González, City Manager

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Russell T. Abeln  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Philip F. Etiwe, Director  
Planning and Inspections Department

*(Acknowledgement on following page)*

## ACKNOWLEDGMENT

**THE STATE OF TEXAS                )**  
**COUNTY OF EL PASO             )**

This instrument is acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Tomás González, as City Manager for the CITY OF EL PASO.

Notary Public, State of Texas  
Notary's Printed or Typed Name:

My Commission Expires:

**AFTER FILING RETURN TO:**  
Physician Reliance, LLC  
10101 Woodlock Forest  
**The Woodlands, Texas 77380**

**ORDINANCE NO.** \_\_\_\_\_  
22-1007-2913 | 1178403  
Planning & Zoning | Grandview ROW Vacation Ordinance Package  
RTA

RIGHT OF WAY VACATION

LOT 4 & THE WEST 8.5' OF LOT 3  
1905 GRANDVIEW AVE

FOUND "X" ON  
SIDEWALK

FOUND CITY  
MONUMENT DISK  
AT THE MONUMENT  
LINE INTERSECTION  
WITH COTTON ST.  
10' WEST OF CL

7

HIGHLAND PARK  
ADDITION

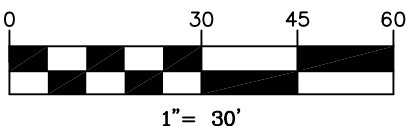
VOL. 1, PG. 54

PORTION OF BLOCKS 7, 10,  
ALLEYS, AND CLOSED STREETS

1901 GRANDVIEW AVE.  
PHYSICIAN RELIANCE  
L P  
BK. 3428, PG. 618

BEING A  
PORTION OF  
GRANDVIEW  
AVENUE

1,946 sq.ft.  
0.0447 acres



FOUND "X" ON  
SIDEWALK

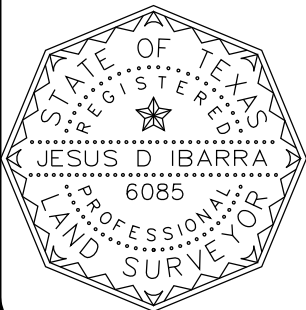
LAUREL STREET

(60' R.O.W.)

NOTES:

1. BEARING BASIS IS RECORD AS PER METES AND BOUNDS EXHIBIT MADE PART OF WARRANTY DEED RECORDED IN BOOK 3428, PAGE 618, EL PASO COUNTY DEED RECORDS AND REFERENCE BY FOUND CITY MONUMENTS SHOWN HEREIN.
2. THIS PROPERTY MAY BE SUBJECT TO EASEMENT WHETHER OF RECORD NOT. (NOT SHOWN).
3. A METES AND BOUNDS DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAT.

LINE TABLE		
LINE	LENGTH	BEARING
L1	17.00	N00°00'00"E
L2	8.00	N00°00'00"E
L3	8.00	S00°00'00"W

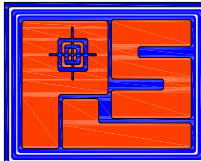


CERTIFICATION

I HEREBY CERTIFY THAT THIS MAP WAS MADE FROM AN ACTUAL ON THE GROUND SURVEY AND THAT THE MONUMENTATION SHOWN HEREON WERE FOUND AND/OR PLACED UNDER MY PERSONAL SUPERVISION. A ALSO CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1A, CONDITION II SURVEY.

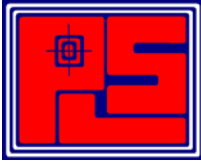
1-5-2022

JESUS D. IBARRA RPLS#6085, FIRM#10194184



PRECISION LAND SURVEYORS  
1041 VALLE DE ORO DR.  
EL PASO, TEXAS 79927  
(915)222-5227 - (575)640-0474

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# PRECISION LAND SURVEYORS

10441 VALLE DE ORO DR.

El Paso, Texas 79927

Ph# (915) 222-5227

Being a portion of Grandview Avenue,  
Block 7, Highland Park Addition,  
City of El Paso, El Paso County, Texas  
January 5, 2022;

## METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Grandview Avenue, Block 7, Highland Park Addition, City of El Paso, El Paso County, Texas , and being more particularly described by metes and bounds as follows:

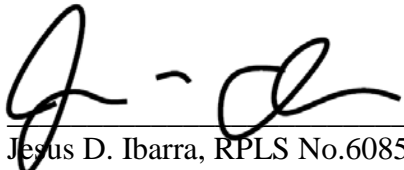
Commencing for reference at found city monument disk at the monument line intersection of Grandview Avenue (70 foot right of way), 10 feet north of centerline and Cotton Street (70 foot right of way), 10 foot west of centerline, thence along the Grandview Avenue monument line, North 90°00'00" West a distance of 838.23 feet to a point, thence leaving said monument line, North 00°00'00" East a distance of 17.00 feet to a point at the easterly right of way of Laurel Street (70 foot right of way) and the **"TRUE POINT OF BEGINNING"**.

Thence along said right of way, **North 00°00'00" East** a distance of **8.00 feet** to a found "X" on sidewalk;

Thence leaving said right of way, **South 90°00'00" East** a distance of **243.21 feet** to a found X on sidewalk;

Thence, **South 00°00'00" West** a distance of **8.00 feet** to a point at the northerly right of way of Grandview Avenue;

Thence along said right of way, **North 90°00'00" West** a distance of **243.21 feet** to **"TRUE POINT OF BEGINNING"** and containing in all **1,946 square feet** or **0.0447 acres** of land more or less.



Jesus D. Ibarra, RPLS No.6085  
January 5, 2022





# Grandview ROW Vacation

City Plan Commission — March 10, 2022 — **REVISED**



**CASE NUMBER/TYPE:** SURW22-00003 – RIGHT-OF-WAY VACATION  
**CASE MANAGER:** Jorge Olmos, (915) 212-1607, OlmosJA@elpasotexas.gov  
**PROPERTY OWNER:** Physician Reliance, LLC  
**REPRESENTATIVE:** Quantum Engineering Consultants  
**LOCATION:** West of Cotton St and North of I-10 (District 8)  
**PROPERTY AREA:** 0.0447 acres  
**ZONING DISTRICT(S):** R-5 (Residential)

**SUMMARY OF RECOMMENDATION:** Staff recommends **APPROVAL** of the Grandview Right-of-Way (ROW) Vacation.

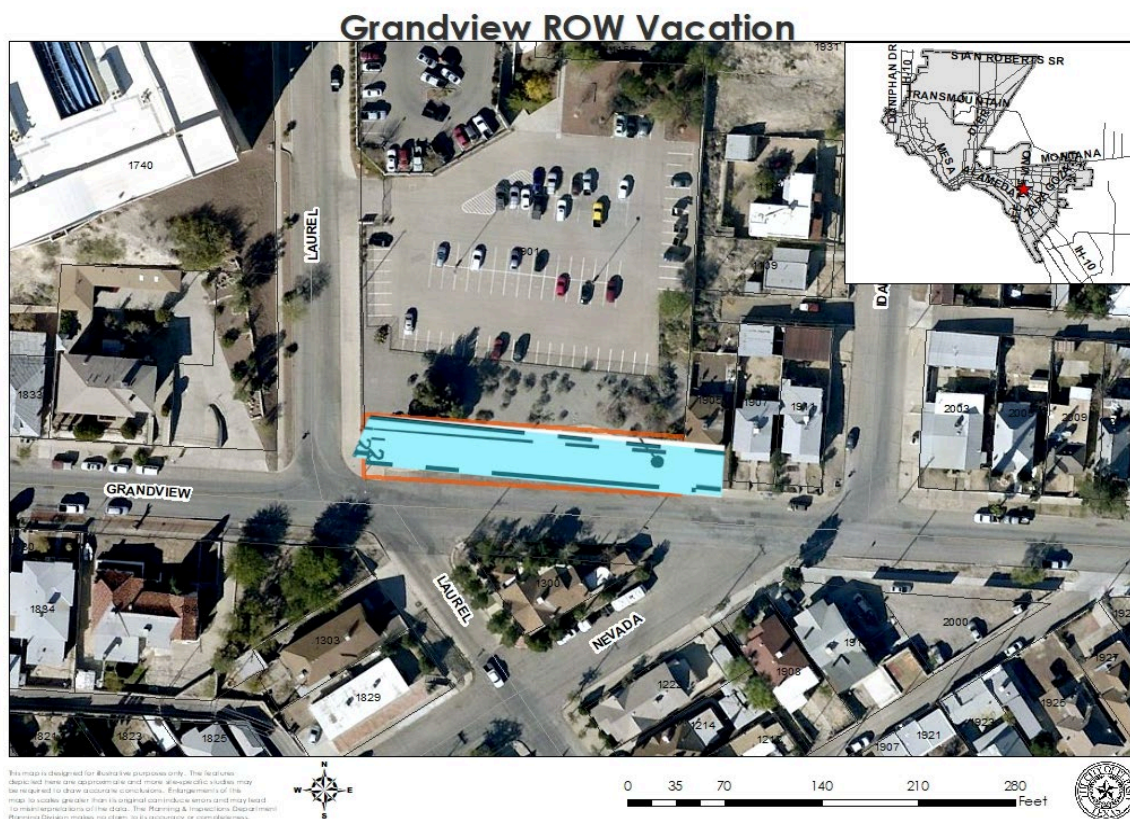


Figure A: Proposed plat with surrounding area

**DESCRIPTION OF REQUEST:** The applicant, who is the abutting property owner, proposes to vacate a 0.0447 acre portion of Grandview Avenue. This request will remedy the existing encroachment of a wall into City right-of-way. The right-of-way is currently paved, with no utility infrastructure.

**CASE HISTORY/RELATED APPLICATIONS:** N/A

**NEIGHBORHOOD CHARACTER:** Surrounding neighborhood characteristics are identified in the following table.

Surrounding Zoning and Use	
North	C-1 C (Commercial/condition) / Medical office
South	R-5 (Residential) / Residential development
East	R-5 (Residential) / Residential development
West	A-O SC (Apartment and Office/special contract) / Medical facility
Nearest Public Facility and Distance	
Park	Murchison Rogers Park (0.34 miles)
School	Armendariz Middle School (0.33 miles)
Plan El Paso Designation	
G-3, Post-War	
Impact Fee Service Area	
N/A	

**PUBLIC COMMENT:** Notices of the proposed right-of-way vacation were sent on February 25, 2022 to all property owners within 300 feet of the subject property. As of March 3, 2022, staff has not received any communication regarding this request.

**CITY PLAN COMMISSION OPTIONS:**

The City Plan Commission (CPC) has the authority to advise City Council on right-of-way vacation requests. When a request is brought forward to the CPC for review, the Commission may take any of the following actions:

1. **Recommend Approval:** The CPC finds that the proposed vacation request is in conformance with all applicable requirements of Title 19 of the El Paso City Code. **(Staff Recommendation)**
2. **Recommend Approval with Conditions:** The CPC may recommend that City Council impose additional conditions on approval of the request that bring the request into conformance with all applicable requirements of Title 19 of the El Paso City Code.
3. **Recommend Denial:** The CPC finds that the proposed request is not in conformance with all applicable requirements of Title 19 of the El Paso City Code.

**ATTACHMENTS:**

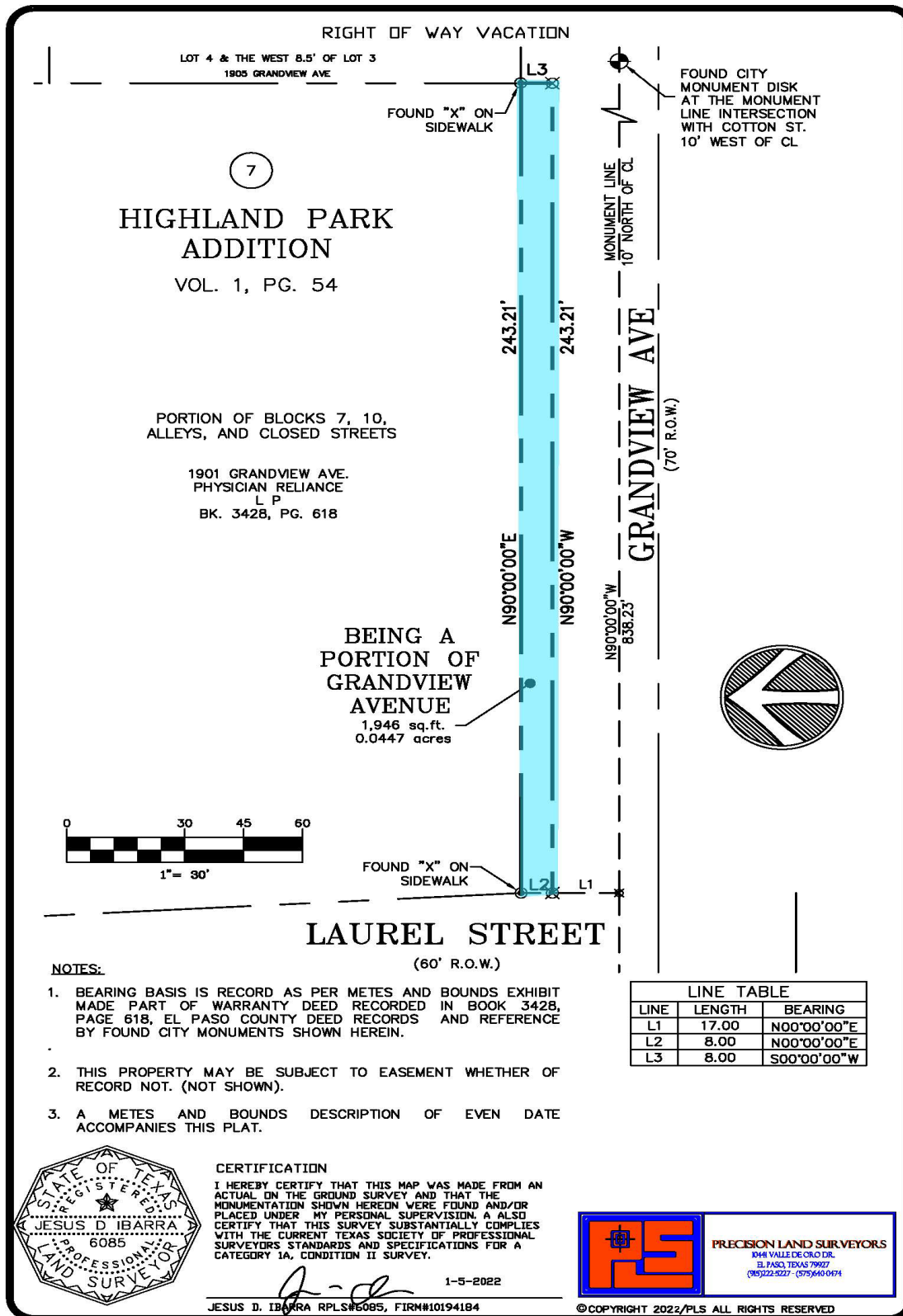
1. Aerial Map
2. Survey
3. Metes and Bounds Description
4. Application
5. Department Comments
6. Letters of Opposition
7. Letter of Opposition



# ATTACHMENT 1

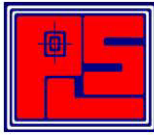


# ATTACHMENT 2





## ATTACHMENT 3



### PRECISION LAND SURVEYORS

10441 VALLE DE ORO DR.

El Paso, Texas 79927

Ph# (915) 222-5227

Being a portion of Grandview Avenue,  
Block 7, Highland Park Addition,  
City of El Paso, El Paso County, Texas  
January 5, 2022;

#### METES AND BOUNDS DESCRIPTION

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Commencing for reference at found city monument disk at the monument line intersection of Grandview Avenue (70 foot right of way), 10 feet north of centerline and Cotton Street (70 foot right of way), 10 foot west of centerline, thence along the Grandview Avenue monument line, North 90°00'00" West a distance of 838.23 feet to a point, thence leaving said monument line, North 00°00'00" East a distance of 17.00 feet to a point at the easterly right of way of Laurel Street (70 foot right of way) and the **"TRUE POINT OF BEGINNING"**.

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Jesus D. Ibarra, RPLS No. 6085  
January 5, 2022



# ATTACHMENT 4

DocuSign Envelope ID: 652A8465-C795-430D-A845-7420F9CFEFD9



## VACATION PUBLIC EASEMENTS AND RIGHTS-OF-WAY APPLICATION

Date: 01/27/2022 File No. \_\_\_\_\_

1. APPLICANTS NAME Physician Reliance, LLC  
ADDRESS 10101 Woodloch Forest Dr. The Woodlands TX ZIP CODE 77380 TELEPHONE \_\_\_\_\_
2. Request is hereby made to vacate the following: (check one)  
Street ☒ Alley ☐ Easement ☐ Other ☐  
Street Name(s) Grandview Ave Subdivision Name Highland Park  
Abutting Blocks None Abutting Lots None
3. Reason for vacation request: An existing rockwall property of Physician Reliance, LLC is abutting city ROW. The purpose of the vacation is so that the wall can be located within Physician Reliance, LLC property.
4. Surface Improvements located in subject property to be vacated:  
None ☐ Paving ☒ Curb & Gutter ☐ Power Lines/Poles ☐ Fences/Walls ☒ Structures ☐ Other ☐
5. Underground Improvements located in the existing rights-of-way:  
None ☐ Telephone ☐ Electric ☐ Gas ☒ Water ☒ Sewer ☐ Storm Drain ☐ Other ☐
6. Future use of the vacated right-of-way:  
Yards ☐ Parking ☐ Expand Building Area ☐ Replat with abutting Land ☒ Other ☐
7. Related Applications which are pending (give name or file number):  
Zoning ☒ Board of Adjustment ☐ Subdivision ☐ Building Permits ☒ Other ☐
8. Signatures: All owners of properties which abut the property to be vacated must appear below with an adequate legal description of the properties they own (use additional paper if necessary).

Signature	Legal Description	Telephone
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
_____	_____	_____

The undersigned Owner/Applicant/Agent understands that the processing of this Application will be handled in accordance with the procedure for Requesting Vacations and that no action on processing will be taken without payment of the non-refundable processing fee. It is further understood that acceptance of this application and fee in no way obligates the City to grant the Vacation. I/We further understand that the fee, if the Vacation is granted will be determined by the City of El Paso and a Certified or Cashier's Check must be presented before the request will be recommended for Council action.

The undersigned acknowledges that he or she is authorized to do so, and upon the City's request will provide evidence satisfactory to the City confirming these representations.

The granting of a vacation request shall not be construed to be a waiver of or an approval of any violation of any of the provisions of any applicable City Ordinance.

OWNER SIGNATURE Huy Nguyen

REPRESENTATIVE SIGNATURE: [Signature]

0E845E80E0864E7

REPRESENTATIVE (PHONE): 915-532-7272

REPRESENTATIVE (E-MAIL): quantum@qeceng.com

**NOTE: SUBMITTAL OF AN APPLICATION DOES NOT CONSTITUTE ACCEPTANCE FOR PROCESSING UNTIL THE PLANNING DEPARTMENT REVIEWS THE APPLICATION FOR ACCURACY AND COMPLETENESS.**

Planning & Inspections Department  
811 Texas | P.O. Box 1890 | El Paso, Texas 79950-1890 | (915) 212-0085

# **ATTACHMENT 5**

## **Planning and Inspections Department- Planning Division**

1. Provide proof of ownership for all abutting properties.

## **Planning and Inspections Department- Land Development Division**

1. Verify if sidewalk connectivity is needed in this row portion.
2. Verify compliance with ADA requirements.

## **Parks and Recreation Department**

No objections.

## **El Paso Police Department**

No objections.

## **Fire Department**

Recommend approval.

## **Streets and Maintenance Department**

TIA is not required.

## **El Paso Water**

EPWater does not object to this request.

### **Water:**

There is an existing 6-inch diameter water main that extends along the northside of Grandview Ave. approximately 19 feet south of the northern right-of-way. This main is available for service.

### **Sanitary Sewer:**

There is an existing 8-inch diameter sewer main that extends along the north side of Grandview Ave. approximately 29.5 feet south of the northern right-of-way. This main is available for service.

There is an existing 8-inch diameter sewer main that extends along the east side of Laurel St. approximately 25 feet west of the eastern right-of-way, that does bisect the northern part of the property. This main is available for service.

### **General:**

EPWater requires a new service application to provide additional service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

### **Stormwater:**

No objections.

## **Texas Gas**

No comments received.



**El Paso Electric**

No comments received.

**El Paso County 911 District**

No comments received.

**Texas Department of Transportation**

No comments received.

**El Paso County**

No comments received.

**El Paso County Water Improvement District #1**

Project not within the boundaries of EPCWID1.

**Sun Metro**

No comments received.

**Capital Improvement Department**

No comments received.

## **ATTACHMENT 6**

**From:** [TERRY O'DONNELL](#)  
**To:** [Olmos, Jorge A.](#)  
**Subject:** Texas oncology Grandview case  
**Date:** Wednesday, March 9, 2022 10:29:58 AM

You don't often get email from [todon38804@aol.com](mailto:todon38804@aol.com). [Learn why this is important](#)

**CAUTION:** This email originated from outside of the City of El Paso. Do not click links or open attachments unless you recognize the sender and know the content is safe. If suspicious, use **Phish Alert** or forward to [SpamReport@elpasotexas.gov](mailto:SpamReport@elpasotexas.gov).

**OlmosJA@elpasotexas.gov.**

**Case number**

**SURW22-00003 Texas Oncology Grandview  
ROW vacation**

By;  
Teresa M. Odonnell  
1300 N. Laurel St.  
El Paso, TX 79902  
[Todon38804@aol.com](mailto:Todon38804@aol.com)

**Petition against proposal of parking lot  
expansion at Texas Oncology Cancer  
Treatment Center “Grandview” Location**

**\*Existing Parking**

The existing lower level of parking-lot at this Texas Oncology location is currently not ever at capacity. Less than half of the spaces are occupied daily. Further, none of the spaces are occupied on weekends and evenings. Therefore, expansion seems unnecessary.

The walk to the facility would be uphill and far for any patient or visitor to consider hiking.

**\*Dangers to the immediate homes**

The traffic on the Grandview, Curry Dr and Laurel St. Intersection is quite high to accommodate more activity.

The runoff from storm water from impermeable proposed parking lot may cause flash flooding conditions and damage to immediate housing.

-Picture provided of runoff in front of our street on Laurel.

If more visitors are anticipated, a higher rate of unknown vehicles parking across from neighboring homes could face potential personal danger such as crime, muggings etc.

There is also the danger that somebody will bang into ones car while backing out.

**\*Bus Stop**

Will the bus stop be moved? It is currently at this precise intersection locale.

**\*The Historical Tree**

The beautiful large historical pine tree is the last remaining object from the former site of the Henry Trost St. Joseph's Sanatorium built in 1928.

<https://www.henrytrost.org/buildings/st-josephs-sanatorium-baldwin/>

The historical tree may be over 100 years old. It is in excellent condition for its age and its location beautifies the neighborhood. This tree is the only natural barrier from this neighborhood before entering the adjoining commercial hospital centers.

This tree could very well be nominated to the Historical Trees of Texas and recognized as an El Paso landmark. Texas Historic Tree Coalition (TxHTC)

Is this tree an endangered tree or protected pine species by the State? It could be! Trying to gather information if possible.

**\*Wildlife**

This tree is and has been a home for many years of native birds including owls.

Adding additional parking and traffic to this area's neighbors would highly effect their livelihood and existence.

The immediate negative community impact is very high!

Mr. Olmos, I highly appreciate the time you are taking to listen to our concerns and grievances. Please let me know if I could supply you with any more pictures or information that I may be able to supply with this case.



## Planning and Inspections

**MAYOR**  
Oscar Leeser

10 de marzo del 2022

### CITY COUNCIL

### Aviso Publico de la Comisión de Planeamiento de la Ciudad

**District 1**  
Peter Svarzbein

Estimado Residente de El Paso:

**District 2**  
Alexsandra Anniello

Esta carta es para notificarle que la Comisión de Planeamiento de la Ciudad de El Paso considerará una solicitud para desocupar una porción de Grandview Ave que es generalmente localizada al Oeste de Cotton St y Norte de I-10. La propiedad es de aproximadamente 0.0447 acres en tamaño.

**District 3**  
Cassandra Hernandez

**Propietario:** Physician Reliance, LLC  
**Descripción Legal de la Propiedad:** A portion of Grandview Avenue, Block 7, Highland Park Addition, City of El Paso, El Paso County, Texas **Caso:** SURW22-00003 Texas Oncology Grandview ROW Vacation

**District 4**  
Joe Molinar

**Lugar:** 300 N. Campbell, 1<sup>st</sup> Floor City Council Chambers, El Paso, Texas, 79901\*\*  
**Fecha Y Hora:** 10 de marzo del 2022 a la 1:30 PM

**District 5**  
Isabel Salcido

**District 6**  
Claudia L. Rodriguez

**District 7**  
Henry Rivera

**District 8**  
Cissy Lizarraga

Si tiene alguna duda o si desea expresar su preocupación, escriba una carta dirigida a la Comisión de Planeamiento de la Ciudad (c/o Planning and Inspections Department, Planning Division, PO Box 1890, El Paso, TX 79950-1890), mande un correo electrónico a [Olmos.JA@elpasotexas.gov](mailto:Olmos.JA@elpasotexas.gov), o llame al (915) 212-1607. La carta o correo electrónico debe de incluir el número del caso, su nombre y dirección, y su opinión acerca del caso. La reunión se puede ver en vivo en línea utilizando el proceso descrito a continuación.

**\*\*Miembros del público pueden comunicarse con la Comisión de Planeamiento de la Ciudad durante el comentario público, y sobre artículos de la agenda llamando gratis al número: 1-915-213-4096 o por llamada gratuita al 1-833-664-9267. A la indicación, por favor marcar el siguiente número de Conferencia: 829 435 214#.**

**CITY MANAGER**  
Tommy Gonzalez

**\*\*Adicionalmente, miembros del publico pueden ver la junta por medio de los siguientes medios:**  
Por medio de la página web de la Ciudad: <http://www.elpasotexas.gov/videos>  
Por medio de YouTube: <https://www.youtube.com/user/cityofelpasotx/videos>

Intérpretes de lengua de señas serán proveídos para la audiencia a pedido. Las solicitudes deben ser hechas al Departamento de Planeamiento e Inspecciones por lo menos 24 horas antes de la fecha y tiempo de la audiencia al (915) 212-1569.

Copias de este aviso/agenda serán proveídas en Braille, impresión grande, o cinta de audio a pedido. Las solicitudes deben ser hechas al Departamento de Planeamiento e Inspecciones por lo menos 48 horas antes de la fecha y tiempo de la audiencia al (915) 212-1569.

**Philip F. Etiwe, Director**  
Planning and Inspections Department | 801 Texas Ave. | El Paso, TX 79901  
Office: (915) 212-0104 | FAX: (915) 212-0084



DELIVERING EXCEPTIONAL SERVICES



## Planning and Inspections

Cordialmente,

**MAYOR**  
Oscar Leeser

Jorge Olmos  
Planner  
Departamento de Planeamiento e Inspecciones

**CITY COUNCIL**

**District 1**  
Peter Svarzbein

**District 2**  
Alexsandra Anello

**District 3**  
Cassandra Hernandez

**District 4**  
Joe Molinar

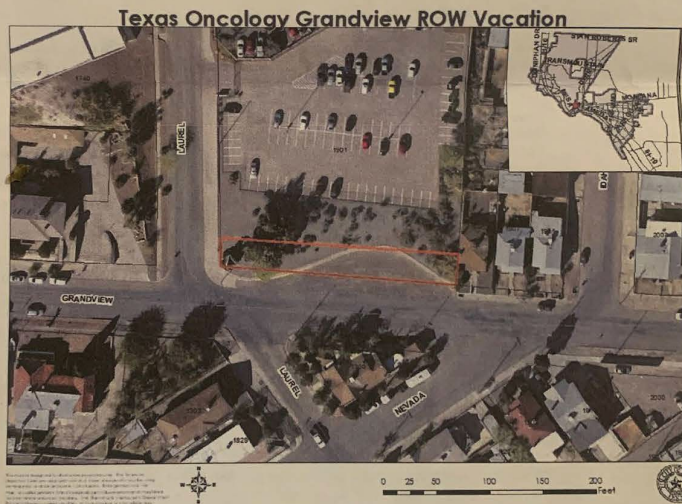
**District 5**  
Isabel Salcido

**District 6**  
Claudia L. Rodriguez

**District 7**  
Henry Rivera

**District 8**  
Cissy Lizarraga

**CITY MANAGER**  
Tommy Gonzalez



**Philip F. Etiwe, Director**  
Planning and Inspections Department | 801 Texas Ave. | El Paso, TX 79901  
Office: (915) 212-0104 | FAX: (915) 212-0084

Mr. Olmos, please advise if there's any other information I can provide and if you have received this email. How much time do we have to compile more evidence and information?

# ATTACHMENT 7

**From:** [Linda Maser](#)  
**To:** [Olmos, Jorge A.](#)  
**Subject:** Re: SURW22-0003 Maser  
**Date:** Tuesday, March 8, 2022 12:37:17 PM

---

[You don't often get email from [fuss1724@yahoo.com](mailto:fuss1724@yahoo.com). Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

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Correction that tree is over 100 years old when the St. Joseph sanatorium was there I will be attaching a picture of the beautiful tree

Sent from my iPhone

> On Mar 8, 2022, at 12:35 PM, Linda Maser <[fuss1724@yahoo.com](mailto:fuss1724@yahoo.com)> wrote:

>

> Good evening sir concerning the El Paso cancer treatment center parking. We have lived there for over 50 years and they have several empty parking spots in their property there's no need to make parking there. The need has been to repave it it is eroded. I contact the city abo about two years ago concerning the repavement but they advised me that it was private property of theirs.. The traffic going towards the hospitals is very busy and when cars would park they would need to reverse and would cause a lot of danger reversing. The tree that is on the property is over 60 years old and would not be right to tear down such a beautiful tree just for unnecessary parking we have several pictures of it when the Saint Joseph psychiatric hospital was there. The hospital was torn down in 1971. That tree is one of the oldest ones in El Paso. As children route we remember our father hooking up several water hoses to water that beautiful tree our home is directly across the street where they want to put this parking. There's very very unnecessary parking. Thank you for your attention in this matter God bless you

>

> Sent from my iPhone







Legislation Text

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File #: 22-1013, Version: 1

---

**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 8**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Jorge Olmos, (915) 212-1607

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

An Ordinance vacating a 1,742 square-foot portion of a 20 foot wide alley and utility easement located within Block 2, Mills Map Addition, City of El Paso, El Paso County, Texas.

Subject Property: 415 North Mesa St.

Applicant: Mills Plaza Properties VIII, LP SURW22-00002



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

**AGENDA DATE:** August 16, 2022  
**PUBLIC HEARING DATE:** August 30, 2022

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Philip F. Etiwe, (915) 212-1553  
Jorge Olmos, (915) 212-1607

**DISTRICT(S) AFFECTED:** District 8

**STRATEGIC GOAL:** #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.2 Set one standard for infrastructure across the city

**SUBJECT:**

An ordinance vacating a 1,742 square-foot portion of a 20-foot wide alley and utility easement, located within Block 2, Mills Map Addition, City of El Paso, El Paso County, Texas

Subject Property: 415 North Mesa St.

Applicant: Mills Plaza Properties VIII, LP SURW22-00002

**BACKGROUND / DISCUSSION:**

The applicant is requesting to vacate a 20' alley to allow for the development of the lot. The alley is located south of Franklin Avenue, and west of Mesa Street. The City Plan Commission recommended 8-0 to approve the proposed alley vacation on March 10, 2022. The applicant has provided funds in the amount of \$19,500, the amount of the appraised market value for the portion of the alley being vacated. See attached staff report for additional information.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES      NO

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division

**SECONDARY DEPARTMENT:** N/A

---

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

**DEPARTMENT HEAD:**

*Philip Etiwe*

---

**ORDINANCE NO.**

**AN ORDINANCE VACATING A 1,742 SQUARE-FOOT PORTION OF A 20-FOOT WIDE ALLEY AND UTILITY EASEMENT LOCATED WITHIN BLOCK 2, MILLS MAP ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS**

**WHEREAS**, the abutting property owner has requested vacation of a 1,742 SQUARE- FOOT PORTION OF A 20 WIDE ALLEY located within Block 2, Mills Map Addition, City of El Paso, El Paso County, Texas; and,

**WHEREAS**, after public hearing the City Plan Commission has recommended a vacation of a 1,742 square foot portion of a 20-foot wide alley located within Block 2, Mills Map Addition, City of El Paso, El Paso County, Texas, and the City Council finds that said right of way is not needed for public use and should be vacated as recommended.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That, in consideration of the receipt by the City of El Paso of TWENTY-FIVE AND 00/DOLLARS (\$25.00) and other good and valuable consideration, the sufficiency of which is acknowledged, a 1,742 square foot portion of a 20-foot wide alley located within Block 2, Mills Map Addition, City of El Paso, El Paso County, Texas, as further described in the attached metes and bounds description identified as Exhibit "A" and made a part hereof by reference, be and is hereby vacated, closed and abandoned, subject to the reservation of a full-width utility easement.

In addition, the City Manager is authorized to sign an instrument quitclaiming all of the City's right, title and interest in and to such vacated right of way to Mills Plaza Properties VIII, LP.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

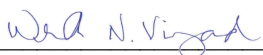
**THE CITY OF EL PASO:**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Philip F. Etiwe  
Planning & Inspections Department

**ORDINANCE NO.** \_\_\_\_\_

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

THE STATE OF TEXAS        }  
  }  
COUNTY OF EL PASO        }                    **QUITCLAIM DEED**

That in consideration of the receipt by the **CITY OF EL PASO** of Ten Dollars (\$10.00) and other valuable consideration, the sufficiency of which is acknowledged, **THE CITY OF EL PASO**, has released and quitclaimed and by these presents does release and quitclaim unto Mills Plaza Properties VIII, LP (the "Grantee"), all its rights, title, interest, claim and demand in and to the property which was vacated, closed and abandoned by Ordinance No. \_\_, passed and approved by the City Council of the City of El Paso and described as **A 20 FOOT ALLEY OUT OF BLOCK 2, MILLS MAP ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS**, which is more fully described in the attached metes and bounds description, identified as Exhibit "A" and in the attached survey identified as Exhibit "B" and made a part hereof by reference.

**WITNESS the following signatures and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

**CITY OF EL PASO:**

**ATTEST:**

\_\_\_\_\_  
Tomás González, City Manager

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

**APPROVED AS TO FORM:**

*Wendi N. Vineyard*

\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

*Philip F. Etrwe*  
\_\_\_\_\_  
Philip F. Etrwe, Director  
Planning and Inspections Department

**ACKNOWLEDGMENT**

THE STATE OF TEXAS        )  
COUNTY OF EL PASO        )

This instrument is acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
by Tomás González, as City Manager for the CITY OF EL PASO.

\_\_\_\_\_  
Notary Public, State of Texas Notary's  
Printed or Typed Name:

My Commission Expires:  
\_\_\_\_\_

**AFTER FILING RETURN TO:**  
Mills Plaza Properties VIII, LP 123  
W Mills Ave, Ste 600  
El Paso, Texas 79925

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

THE STATE OF TEXAS    }  
                                      }  
COUNTY OF EL PASO    }                    **QUITCLAIM DEED**

That in consideration of the receipt by the **CITY OF EL PASO** of Ten Dollars (\$10.00) and other valuable consideration, the sufficiency of which is acknowledged, **THE CITY OF EL PASO**, has released and quitclaimed and by these presents does release and quitclaim unto Kenneth C. Clarence (the "Grantee"), all its rights, title, interest, claim and demand in and to the property which was vacated, closed and abandoned by Ordinance No. \_\_\_\_\_, passed and approved by the City Council of the City of El Paso and described as **A 20 FOOT ALLEY OUT OF BLOCK 2, MILLS MAP ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS**, which is more fully described in the attached metes and bounds description, identified as Exhibit "A" and in the attached survey identified as Exhibit "B" and made a part hereof by reference.

**WITNESS the following signatures and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

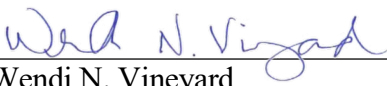
**CITY OF EL PASO**

**ATTEST:**


\_\_\_\_\_  
Tomás González, City Manager

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Philip F. Etiwe, Director  
Planning and Inspections Department

*(Acknowledgement on following page)*

## ACKNOWLEDGMENT

**THE STATE OF TEXAS       )**

**COUNTY OF EL PASO      )**

This instrument is acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
by Tomás González, as City Manager for the CITY OF EL PASO.

Notary Public, State of Texas  
Notary's Printed or Typed Name:

My Commission Expires:

**AFTER FILING RETURN TO:**

Kenneth C. Clarence  
PO Box 1829  
El Paso, Texas 79949

**METES AND BOUNDS DESCRIPTION**  
**PARCEL 1**

LEGAL DESCRIPTION: A portion of the alley out of **Block 2, MILLS MAP ADDITION**, City of El Paso, El Paso County, Texas, containing 1,494.36 s.f. and being described by metes and bounds as follows:

Commencing at a city monument being 10 feet north and 15 feet east of the respective center lines intersection of East Franklin Avenue [a 70' wide public right-of-way] and North Oregon Street, [a 70' wide public right-of-way]; Thence, North 52°23'00" East, with the monument line on East Franklin Avenue, a distance of 160.08 feet to a point; Thence, South 37°37'00" East, a distance of 45.00 feet to a point lying on the southerly right-of-way line of East Franklin Avenue, said point being the TRUE POINT OF BEGINNING of this description.

THENCE, South 37°37'00" East, away from said right-of-way line, a distance of 62.87 feet to a point for a boundary corner.

THENCE, South 53°34'44" West, a distance of 10.00 feet to a point for a boundary corner.

THENCE, South 38°00'22" East, a distance of 23.95 feet to a point for a boundary corner lying on the northerly right-of-way line of an underground train right-of-way.

THENCE, South 52°23'00" West, with said right-of-way line, a distance of 10.00 feet to a point for a boundary corner.

THENCE, North 37°37'00" West, away from said right-of-way line, a distance of 86.67 feet to a point for a boundary corner lying on the southerly right-of-way line of East Franklin Avenue.

THENCE, North 52°23'00" East, with said right-of-way line, a distance of 20.00 feet back to the TRUE POINT OF BEGINNING of this description.

Said parcel of land containing 0.03 of an acre (1,494.36 s.f.) of land, more or less.

A PLAT OF SURVEY OF EVEN DATE ACCOMPANIES THIS METES AND BOUNDS DESCRIPTION.

SLI ENGINEERING, INC.

Consulting Engineers - Land Surveyors  
Guillermo Licon  
Registered Professional Land Surveyor  
Texas License No. 2998

March 29, 2022  
Job# 06-19-4357  
M&B/MN

METES AND BOUNDS DESCRIPTION  
PARCEL 2

PROPERTY DESCRIPTION: A portion of the alley out of Block 2, MILLS MAP ADDITION, City of El Paso, El Paso County, Texas, containing 173.45 s.f.

Commencing at a city monument being 10 feet north and 15 feet east of the respective center lines intersection of East Franklin Avenue [a 70' wide public right-of-way] and North Oregon Street, [a 70' wide public right-of-way]; Thence, North 52°23'00" East, with the monument line on East Franklin Avenue, a distance of 160.08 feet to a point; Thence, South 37°37'00" East, away of said monument line, a distance of 45.00 feet to a point for a corner lying on the southerly right-of-way line of said East Franklin Avenue; Thence, South 37°37'00" East, away from said right-of-way line, a distance of 62.87 feet to a point for a boundary corner, said point being the TRUE POINT OF BEGINNING of this description.

THENCE, South 37°37'00" East, a distance of 23.80 feet to a point for a boundary corner lying on the northwesterly right-of-way of an underground railroad tracks.

THENCE, South 52°23'00" West, with said right-of-way line, a distance of 10.00 feet to a point for a boundary corner.

THENCE, North 37°37'00" West, abandoning said right-of-way line, a distance of 24.01 feet to a point for a boundary corner.

THENCE, North 53°34'44" East, a distance of 10.00 feet back to the TRUE POINT OF BEGINNING of this description.

Said parcel of land containing 239.04 s.f. of land, more or less.

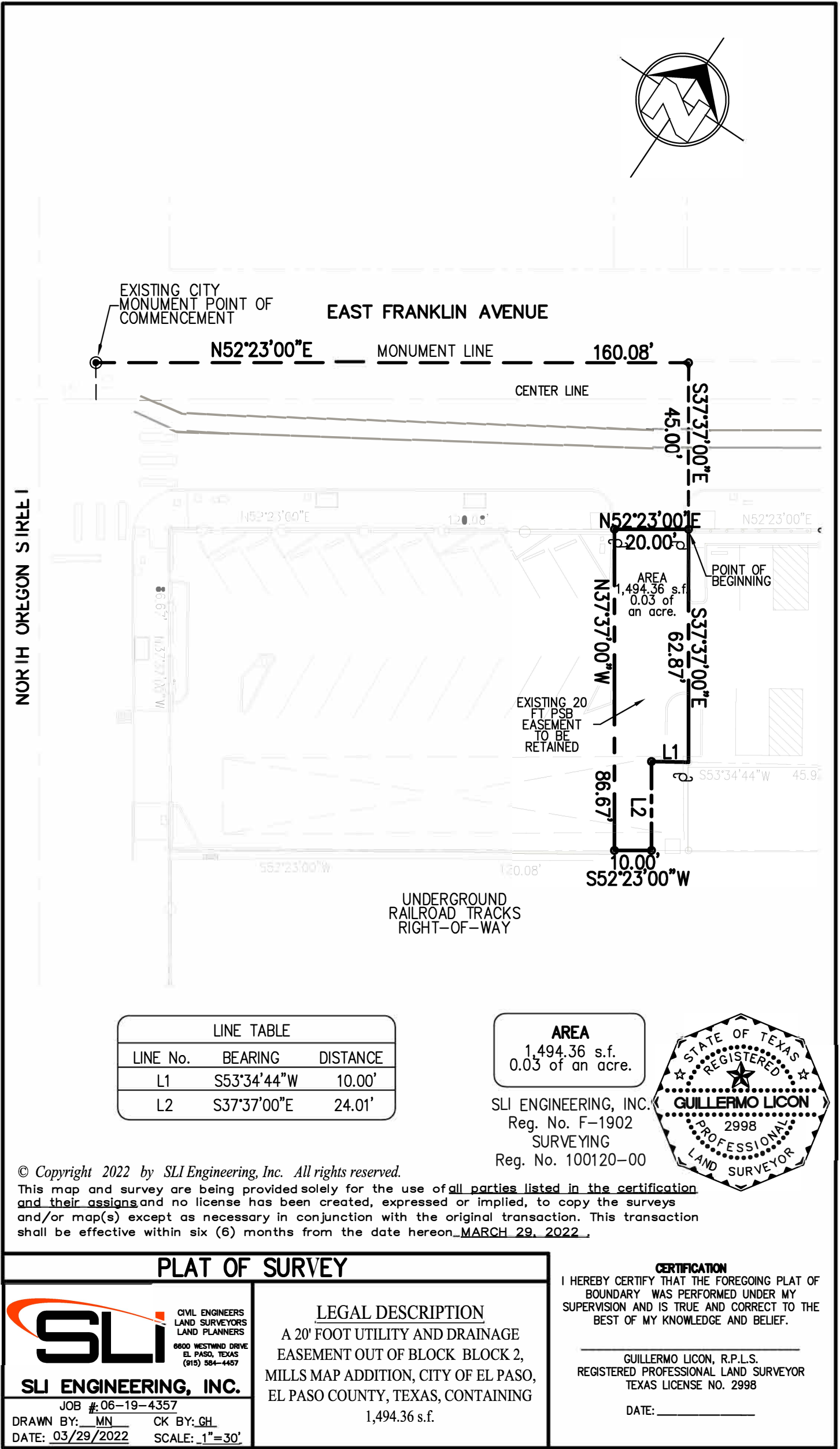
A PLAT OF SURVEY OF EVEN DATE ACCOMPANIES THIS METES AND BOUNDS DESCRIPTION.

SLI ENGINEERING, INC.

Consulting Engineers - Land Surveyors  
Guillermo Licon  
Registered Professional Land Surveyor  
Texas License No. 2998

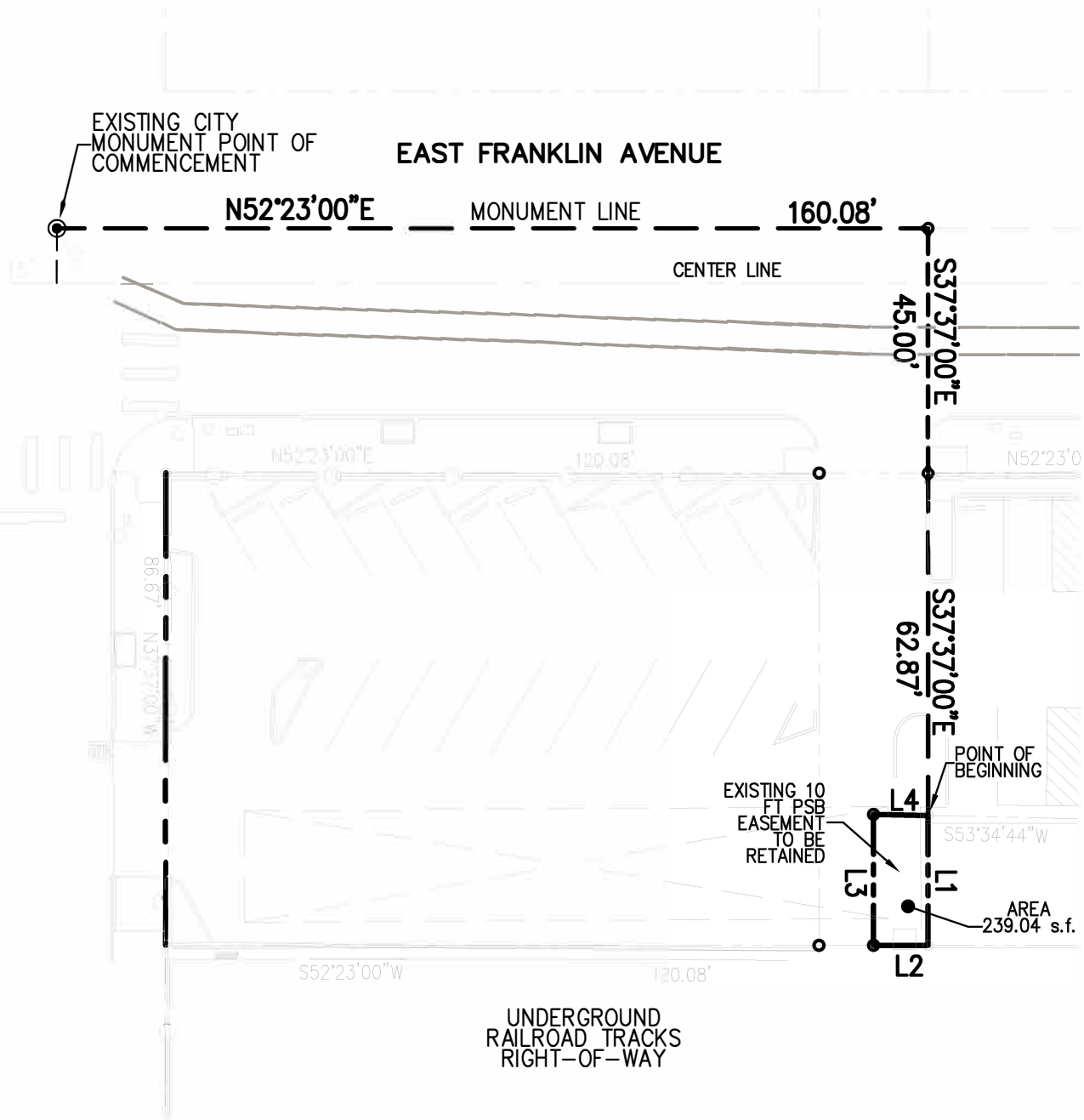
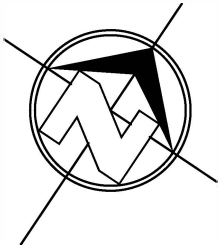
March 29, 2022  
Job# 06-19-4357  
M&B/MN





SLI

EXHIBIT B



LINE TABLE		
LINE No.	BEARING	DISTANCE
L1	S37°37'00"E	23.80'
L2	S52°23'00"W	10.00'
L3	N37°37'00"W	24.01'
L4	N53°34'44"E	10.00'

AREA  
239.04 s.f.

SLI ENGINEERING, INC.  
Reg. No. F-1902  
SURVEYING  
Reg. No. 100120-00



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This map and survey are being provided solely for the use of all parties listed in the certification and their assigns and no license has been created, expressed or implied, to copy the surveys and/or map(s) except as necessary in conjunction with the original transaction. This transaction shall be effective within six (6) months from the date hereon MARCH 29, 2022.

PLAT OF SURVEY



SLI ENGINEERING, INC.

JOB # 06-19-4357

DRAWN BY: MN CK BY: GH  
DATE: 03/29/2022 SCALE: 1"=30'

LEGAL DESCRIPTION

A 10' UTILITY AND DRAINAGE EASEMENT  
OUT OF BLOCK BLOCK 2, MILLS MAP  
ADDITION, CITY OF EL PASO, EL PASO  
COUNTY, TEXAS, CONTAINING 239.04 s.f.

CERTIFICATION

I HEREBY CERTIFY THAT THE FOREGOING PLAT OF  
BOUNDARY WAS PERFORMED UNDER MY  
SUPERVISION AND IS TRUE AND CORRECT TO THE  
BEST OF MY KNOWLEDGE AND BELIEF.

GUILLERMO LICON, R.P.L.S.  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS LICENSE NO. 2998

DATE: \_\_\_\_\_

# 415 N Mesa Vacation



City Plan Commission — March 10, 2022 — **REVISED**

**CASE NUMBER/TYPE:** SURW22-00002 – RIGHT-OF-WAY VACATION  
**CASE MANAGER:** Jorge Olmos, (915) 212-1607, OlmosJA@elpasotexas.gov  
**PROPERTY OWNER:** Mills Plaza Properties VIII, LP  
**REPRESENTATIVE:** SLI Engineering, Inc.  
**LOCATION:** South of I-10 and West of Campbell St (District 8)  
**PROPERTY AREA:** 0.04 acres  
**ZONING DISTRICT(S):** C-5 (Central Business District)

**SUMMARY OF RECOMMENDATION:** Staff recommends **APPROVAL** of 415 N Mesa Right-of-Way (ROW) Vacation.

## 415 N Mesa ROW Vacation



Figure A: Proposed plat with surrounding area

**DESCRIPTION OF REQUEST:** The applicant seeks to vacate a portion of the alley located east of Mesa Street and south of Franklin Avenue. Written concurrence has been received from the . The area requested to be vacated is 0.04 acres in size. The applicant is attempting to vacate ROW in order to allow for the development of the lot. The right-of-way is currently paved, with existing utility infrastructure. A full-width utility easement will be retained to accommodate exiting infrastructure within the area to be vacated.

**CASE HISTORY/RELATED APPLICATIONS:** N/A

**NEIGHBORHOOD CHARACTER:** Surrounding neighborhood characteristics are identified in the following table.

Surrounding Zoning and Use	
North	C-5 (Central Business District) / Commercial development
South	C-5 (Central Business District) / Parking lot
East	C-5 (Central Business District) / Commercial development
West	C-5 (Central Business District) / Parking lot
Nearest Public Facility and Distance	
Park	San Jacinto Plaza Park (0.05 miles)
School	Triumph Charter High School (0.19 miles)
Plan El Paso Designation	
G-1 .Downtown	
Impact Fee Service Area	
N/A	

**PUBLIC COMMENT:** Notices of the proposed right-of-way vacation were sent on February 25, 2022 to all property owners within 300 feet of the subject property. As of March 3, 2022, staff has not received any communication regarding this request.

**CITY PLAN COMMISSION OPTIONS:**

The City Plan Commission (CPC) has the authority to advise City Council on right-of-way vacation requests. When a request is brought forward to the CPC for review, the Commission may take any of the following actions:

1. **Recommend Approval:** The CPC finds that the proposed vacation request is in conformance with all applicable requirements of Title 19 of the El Paso City Code. (Staff Recommendation)
2. **Recommend Approval with Conditions:** The CPC may recommend that City Council impose additional conditions on approval of the request that bring the request into conformance with all applicable requirements of Title 19 of the El Paso City Code.
3. **Recommend Denial:** The CPC finds that the proposed request is not in conformance with all applicable requirements of Title 19 of the El Paso City Code.

**ATTACHMENTS:**

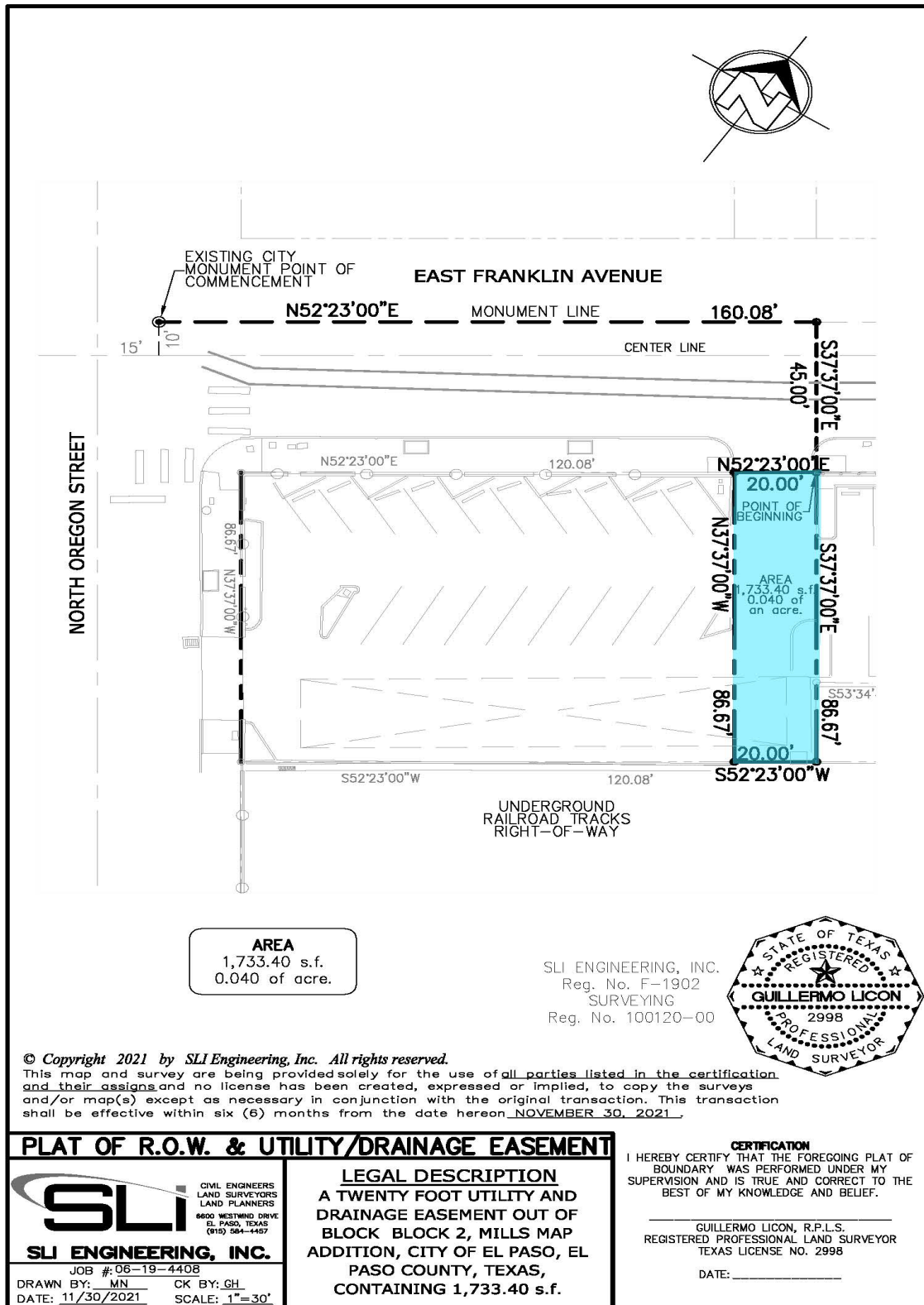
1. Aerial Map
2. Survey
3. Metes and Bounds Description
4. Application
5. Department Comments



# ATTACHMENT 1



# ATTACHMENT 2



2 of 2

# **ATTACHMENT 3**

## **METES AND BOUNDS DESCRIPTION PLAT OF R.O.W. & UTILITY/DRAINAGE EASEMENT**

A portion of Block 2, MILLS MAP ADDITION, an Addition to the City of El Paso, El Paso County, Texas and is described by metes and bounds as follows:

Commencing at a city monument being 10 feet north and 15 feet east of the respective center lines intersection of East Franklin Avenue [a 70' wide public right-of-way] and North Oregon Street, [a 70' wide public right-of-way]; Thence, North 52°23'00" East, with the monument line on East Franklin Avenue, a distance of 160.08 feet to a point; Thence, South 37°37'00" East, away of said monument line, a distance of 45.00 feet to a point for a boundary corner of the parcel herein being described and lying on the southeasterly right-of-way line of said East Franklin Avenue, said point being the TRUE POINT OF BEGINNING of this description.

THENCE, South 37°37'00" East, away from said right-of-way line, a distance of 86.67 feet to a point for a boundary corner lying on the northwesterly right-of-way of an underground railroad tracks.

THENCE, South 52°23'00" West, with said right-of-way line, a distance of 20.00 feet to a point for a boundary corner.

THENCE, North 37°37'00" West, abandoning said right-of-way line, a distance of 86.67 feet to a point for a boundary corner lying on the southeasterly right-of-way line of East Franklin Avenue.

THENCE, North 52°23'00" East, with said right-of-way line, a distance of 20.00 feet back to the TRUE POINT OF BEGINNING of this description.

Said parcel of land containing 0.040 of an acre (1,733.40 s.f.) of land, more or less.

A PLAT OF SURVEY OF EVEN DATE ACCOMPANIES THIS METES AND BOUNDS DESCRIPTION.

SLI ENGINEERING, INC.

Consulting Engineers - Land Surveyors  
Guillermo Licon  
Registered Professional Land Surveyor  
Texas License No. 2998

November 30, 2021  
Job# 06-19-4357  
M&B/MN

# ATTACHMENT 4


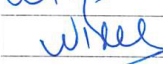


## VACATION PUBLIC EASEMENTS AND RIGHTS-OF-WAY APPLICATION

Date: 01/10/2022

File No. \_\_\_\_\_

1. APPLICANTS NAME: MILLS PLAZA PROPERTIES VIII, LP  
ADDRESS 123 W Mills Ave Suite 600 El Paso, Texas ZIP CODE 79901 TELEPHONE 915-504-7152
2. Request is hereby made to vacate the following: (check one)  
Street ☐ Alley ☒ Easement ☐ Other ☐  
Street Name(s) 415 N Mesa/414 N. Oregon Subdivision Name MILLS ADDITION  
Abutting Blocks 2 Abutting Lots 10
3. Reason for vacation request: TO COMBINE ABUTTING LOTS TO CREATE A LARGER LOT FOR FUTURE DEVELOPMENT
4. Surface Improvements located in subject property to be vacated:  
None ☐ Paving ☒ Curb & Gutter ☒ Power Lines/Poles ☒ Fences/Walls ☐ Structures ☐ Other ☐
5. Underground Improvements located in the existing rights-of-way:  
None ☐ Telephone ☒ Electric ☐ Gas ☒ Water ☒ Sewer ☒ Storm Drain ☐ Other ☐
6. Future use of the vacated right-of-way:  
Yards ☐ Parking ☒ Expand Building Area ☐ Replat with abutting Land ☐ Other ☐
7. Related Applications which are pending (give name or file number):  
Zoning ☐ Board of Adjustment ☐ Subdivision ☐ Building Permits ☐ Other ☐
8. Signatures: All owners of properties which abut the property to be vacated must appear below with an adequate legal description of the properties they own (use additional paper if necessary).

Signature	Legal Description	Telephone
	Parcel 1: 0.239 Acres of Block 2, Mills Map Addition	915-504-7152
	Parcel 2: 0.178 Acres of Block 2, Mills Map Addition	915-504-7152

The undersigned Owner/Applicant/Agent understands that the processing of this Application will be handled in accordance with the procedure for Requesting Vacations and that no action on processing will be taken without payment of the non-refundable processing fee. It is further understood that acceptance of this application and fee in no way obligates the City to grant the Vacation. I/We further understand that the fee, if the Vacation is granted will be determined by the City of El Paso and a Certified or Cashier's Check must be presented before the request will be recommended for Council action.

The undersigned acknowledges that he or she is authorized to do so, and upon the City's request will provide evidence satisfactory to the City confirming these representations.

The granting of a vacation request shall not be construed to be a waiver of or an approval of any violation of any of the provisions of any applicable City ordinances.

OWNER SIGNATURE:  REPRESENTATIVE SIGNATURE: \_\_\_\_\_

REPRESENTATIVE (PHONE): 915 203 7277

REPRESENTATIVE (E-MAIL): ghaloul@eli-engineering.com

**NOTE: SUBMITTAL OF AN APPLICATION DOES NOT CONSTITUTE ACCEPTANCE FOR PROCESSING UNTIL THE PLANNING DEPARTMENT REVIEWS THE APPLICATION FOR ACCURACY AND COMPLETENESS.**

Planning & Inspections Department  
811 Texas | P.O. Box 1890 | El Paso, Texas 79950-1890 | (915) 212-0085



# **ATTACHMENT 5**

## **Planning and Inspections Department- Planning Division**

No objections, staff recommends approval.

## **Planning and Inspections Department- Land Development Division**

No objections to proposed vacation.

## **Parks and Recreation Department**

No objections.

## **Sun Metro**

No comments received.

## **Fire Department**

No comments received.

## **Streets and Maintenance Department**

TIA is not required.

## **Capital Improvement Department**

No comments received.

## **El Paso Water**

El Paso Water (EPWater) does not object to this request, as long as a full width utility easement is retained.

EPWater is coordinating with the owner's representative regarding accessibility for the easement.

### **Water:**

There is an existing 4-inch diameter water main located along the Alley, south of Franklin Ave. between Mesa Street and Oregon Street. This water main is available for service.

EPWater records indicate one (1) 3/4" service meter (Active) on the property with 413 N. Mesa St., as the service address.

### **Sanitary Sewer:**

There is an existing 6-inch diameter sanitary sewer main located along the Alley south of Franklin Ave. between Mesa Street and Oregon Street. This sanitary sewer main is available for service.

### **General:**

All easements dedicated for public water and/or sanitary sewer facilities are to comply with EPWater-PSB Easement Policy. EPWater-PSB requires access to the proposed water, sanitary sewer facilities, appurtenances, and meters within the easement 24 hours a day, seven (7) days a week. No building, reservoir, structure, parking stalls or other improvement, other than asphaltic paving (HMAC), shall be constructed or maintained on the above referenced utility easements without the written consent of EPWater-PSB. The Developer shall refrain from constructing rock walls, signs, buildings, curbs or any structure that will interfere with the access to the PSB easements. There shall be at least 5-foot setback from the easement line to any sign or structure.

During the site improvement work, the Owner/Developer shall safeguard all existing water mains, sewer mains, and appurtenant structures. The Owner/Developer shall minimize changes in grade above or near the vicinity of the existing PSB facilities and is responsible for the cost of setting appurtenant structures to final grade.

An application for water and sanitary sewer services should be submitted 6 to 8 weeks prior to construction to ensure water for construction work. Additional service applications are available at 1154 Hawkins, 3rd Floor. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property, and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

Stormwater:

No objections to the proposed development.

**Texas Gas**

No comments received.

**El Paso Electric**

No comments received.

**El Paso County 911 District**

No comments received.

**Texas Department of Transportation**

No comments received.

**El Paso County**

No comments received.

**El Paso County Water Improvement District #1**

No comments received.



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

---

**File #: 22-998, Version: 1**

---

**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Human Resources, Araceli Guerra, (915) 212-1241

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

An Ordinance amending Ordinance 8064 (Classification and compensation Plan) to amend Section 4.5 (Observed Holidays) to add Cesar Chavez Day.

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

**DEPARTMENT:** Human Resources Department

**AGENDA DATE:** August 16, 2022

**PUBLIC HEARING DATE:** August 30, 2022

**CONTACT PERSON AND PHONE:** Araceli Guerra, Managing Director, 915-212-1241

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 6: Set the Standard for Sound Governance and Fiscal Management

**SUBJECT:**

An Ordinance amending Ordinance 8064 (Classification and compensation Plan) to amend Section 4.5 (Observed Holidays) to add Cesar Chavez Day.

**BACKGROUND / DISCUSSION:**

On June 22, 2022. City Council directed the City Manager to implement the workweek changed in honor of Cesar Chavez Day and to request that this day be honored going forward as an official City Holiday with the least budgetary impact.

**PRIOR COUNCIL ACTION:**

On September 19, 2020. Ordinance 8064 was amended to implement the workweek changed in honor of June 19 (Juneteenth) and to request that this day be honored going forward as an official City holiday.

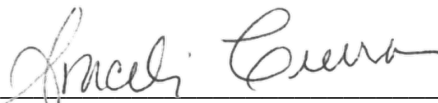
**AMOUNT AND SOURCE OF FUNDING:**

FY 22 budget for each department

---

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

**DEPARTMENT HEAD:**



---

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

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE 8064 (CLASSIFICATION AND COMPENSATION PLAN) TO AMEND SECTION 4.5 (OBSERVED HOLIDAYS) TO ADD CESAR CHAVEZ DAY.**

**WHEREAS,** On March 31, 1927 Cesar Chavez was born. He was an American farm worker, labor leader, and civil rights activist; and

**WHEREAS,** in 2014 President Barack Obama declared March 31<sup>st</sup> as Cesar Chavez Day a national holiday to celebrate the birth and legacy of the civil rights and labor rights activist; and

**WHEREAS,** the City Council of the City of El Paso desires to add Cesar Chavez Day to the list of holidays observed by the City pursuant to the City's Classification and Compensation Plan.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

- 1. That Section 4.5 (OBSERVED HOLIDAYS) of Ordinance 8064 (CLASSIFICATION AND COMPENSATION PLAN), is amended as follows:**

**4.5 OBSERVED HOLIDAYS**

The following days are hereby declared holidays observed by all the City departments, provided that the provisions of this section shall not apply to members of the Fire Department or to members of the Police Department. who are covered by collective bargaining agreements with the City. (Amended 10/03/95, 6/1/10, 10/2/2018)

1. First day of January (New Year's Day)
2. Third Monday in January (Martin Luther King Holiday)
3. Thirty-first day of March (Cesar Chavez Day) (Added \_\_\_\_\_)
4. Last Monday in May (Memorial Day)
5. June 19 (Juneteenth)
6. Fourth day of July (Independence Day)
7. First Monday in September (Labor Day)
8. Eleventh Day in November (Veterans' Day)(Amended 10/02/2018)
9. Fourth Thursday in November (Thanksgiving Day)

10. The Friday following the fourth Thursday in November (Day after Thanksgiving)(Amended 02/24/09, 06/25/09, 8/25/09)

11. Twenty-fifth Day in December (Christmas Day)

12. Employee's Birthday

When any holiday falls on a Saturday, the preceding business day shall be the day on which the holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Amended 6/1/10)

When any holiday falls on a Sunday, the following business day shall be the day on which the holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Amended 6/1 /1 0)

Provided however, when the first day of January (New Year's Day) or the twenty-fifth day in December (Christmas Day) fall on a Saturday or Sunday, the preceding business day or the following business day shall be the day on which the holiday shall be observed by the City departments, as determined by the City Manager, who shall also have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Added 6/1/10)

In addition to the above days, the following days are also declared to be holidays observed by the City departments: (Amended 6/1/10)

1. Any day designated as a holiday by City Council.

A) Holiday Worked. Any department head who finds it necessary to do so, may request some or all employees of his department to report for work on any of these legal holidays.(Amended 02/24/09, 3/6/12)

The department head may do either of the following when employees work a holiday:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)
2. Pay employee the holiday, plus the actual numbers of hours worked at straight time. If employee works more than eight hours on a holiday, see Section 3.13 for method of overtime payment. In either case, the department head shall keep a record and report on such overtime work on holidays on the regular payrolls and

on such reports as may be prescribed by the Human Resources Director.  
(Amended 08/28/07 and 02/24/09)

B) Holiday On Scheduled Day Off. Whenever a holiday falls on the employee's scheduled day off, the department head may do either of the following:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)
2. Pay the employee the holiday. (Amended 02/24/09)

C) Holiday Accrual. If an employee is allowed to accrue the holiday, the number of hours credited for 8 hours per day, 40 hours per week will be eight (8) hours, for 10 hours per day, 40 hours per week will be ten (10) hours. The maximum accrual for holiday leave time shall not exceed the number of declared legal holidays excluding the birthday holiday. Accrued holidays must be used within 12 months of the accrued holiday and must be taken in the same increment in which it was accrued. (Amended 10/03/95, 3/6/12, 9/17/13)

D) Limitation of Payment or Accrual. An employee whose scheduled workday falls on an observed holiday is limited to one payment or accrual for that observed holiday. (Added 6/1/10)

E) Employee's Birthday. In case of emergency, when the employee's services are needed on his/her birthday, the employee may be required by the department head to work on that day or shift but shall be given equal time off on another day or shift. If the employee's birthday falls on a day on which he would be entitled to be off for some other reason, the birthday holiday may be taken on the next regular work day, provided, however, if work schedules cannot be arranged or if emergencies exist, and only in these cases, the department head may schedule the holiday time off on another day or another shift. (Amended 02/24/09)

Any birthday holiday not taken on the employee's birthday but rescheduled in accordance with the above provisions must be scheduled and taken within fourteen calendar days before or fourteen calendar days after the employee's birthday. (Amended 08/28/07, 02/24/09)

F) Hours of Holiday Pay. The amount of holiday pay for employees who work 40 hours per week, 5 days per week, shall be 8 hours per holiday. The amount of holiday pay for employees who work 40 hours per week, 4 days per week, shall be 10 hours per holiday. Regular part-time employees who work an average of 20 or more hours per week shall be paid holiday pay of a prorated amount of hours based on the average number of paid hours, excluding overtime, in the two pay periods immediately preceding the holiday pay

period. The City Manager shall designate the appropriate work week for employees for purposes of determining holiday pay. (Amended 05/08/90, 3/6/12)

2. **Except as amended herein, Ordinance 8064 shall otherwise remain in full force and effect.**

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF EL PASO**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

*Ramona Frazier*  
\_\_\_\_\_  
Ramona Frazier  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

*Araceli Guerra*  
\_\_\_\_\_  
Araceli Guerra  
Human Resources Director



**ORDINANCE 8064**

**SECTION 4.5 (OBSERVED HOLIDAYS)**

**WITH TRACK CHANGES**

## **ORDINANCE 8064, SECTION 4.5 (OBSERVED HOLIDAYS)**

### **AMENDMENT WITH TRACK CHANGES**

#### **4.5 OBSERVED HOLIDAYS**

The following days are hereby declared holidays observed by all the City departments, provided that the provisions of this section shall not apply to members of the Fire Department or to members of the Police Department. who are covered by collective bargaining agreements with the City. (Amended 10/03/95, 6/1 /10)

1. First day of January (New Year's Day)
2. Third Monday in January (Martin Luther King Holiday)
3. Thirty-first day of March (Cesar Chavez Day) (Added \_\_\_\_\_)
4. . Last Monday in May (Memorial Day)
5. June 19 (Juneteenth)
6. Fourth day of July (Independence Day)
7. First Monday in September (Labor Day)
8. Eleventh Day in November (Veterans' Day) (Amended 10/02/2018)
9. Fourth Thursday in November (Thanksgiving Day)
10. The Friday following the fourth Thursday in November (Day after Thanksgiving)(Amended 02/24/09, 06/25/09, 8/25/09)
11. Twenty-fifth Day in December (Christmas Day)
12. Employee's Birthday

When any holiday falls on a Saturday, the preceding business day shall be the day on which the holiday shall be observed by the City departments. provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Amended 6/1/10)

When any holiday falls on a Sunday, the following business day shall be the day on which the holiday shall be observed by the City departments, provided however that the City Manager or designee shall have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Amended 6/1 /10)

Provided however, when the first day of January (New Year's Day) or the twenty-fifth day in December (Christmas Day) fall on a Saturday or Sunday, the preceding business day or the following business day shall be the day on which the holiday shall be observed by the City departments, as determined by the City Manager, who shall also have the authority to determine the appropriate day of observation of such holiday for employees who are scheduled to work on the holiday. (Added 6/1/10)

In addition to the above days, the following days are also declared to be holidays observed by the City departments: (Amended 6/1/10)

1. Any day designated as a holiday by City Council.

A) Holiday Worked. Any department head who finds it necessary to do so, may request some or all employees of his department to report for work on any of these legal holidays. (Amended 02/24/09, 3/6/12)

The department head may do either of the following when employees work a holiday:

1. Arrange for the employee to accrue the holiday and permit the time off within the specified period (12 months of the accrued holiday), or (Amended 02/24/09)
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**ORDINANCE 8064**

**SECTION 4.5 (OBSERVED HOLIDAYS)**

**WITH ACCEPTED CHANGES**

## **ORDINANCE 8064, SECTION 4.5 (OBSERVED HOLIDAYS)**

### **AMENDMENT WITH ACCEPTED CHANGES**

#### **4.5 OBSERVED HOLIDAYS**

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Legislation Text

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File #: 22-1082, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action that the City Manager be authorized to sign the Agreement for Professional Services by and between the City of El Paso and Parkhill, Smith & Cooper, Inc., a Domestic For-Profit Corporation, for a project known as "EPIA-Taxiway Golf Reconstruction", for an amount not to exceed \$876,370.00; that the City Engineer is authorized to approve additional Basic Services and Reimbursable Expenses for an amount not to exceed \$50,000.00; and to approve Additional Services for an amount not to exceed \$50,000.00; if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount not to exceed \$976,370.00; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**  
Yvette Hernandez, PE City Engineer, (915) 212-1860

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 1. Create an Environment Conducive to Strong, Sustainable, Economic Development

**SUBGOAL:** 1.4: Grow the core business of air transportation

**SUBJECT:**

Discussion and action that the City Manager be authorized to sign the Agreement for Professional Services by and between the City of El Paso and **Parkhill, Smith & Cooper, Inc., a Domestic For-Profit Corporation**, for a project known as "**EPIA-Taxiway Golf Reconstruction**", for an amount not to exceed **\$876,370.00**; that the City Engineer is authorized to approve additional Basic Services and Reimbursable Expenses for an amount not to exceed \$50,000.00; and to approve Additional Services for an amount not to exceed \$50,000.00; if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount not to exceed **\$976,370.00**; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.

**BACKGROUND / DISCUSSION:**

This contract is for the professional engineering for the reconstruction of Taxiway Golf and its associated shoulders. This project will remove and replace the aging asphalt pavement of Taxiway Golf and include upgrading existing airfield lighting and signage components. All improvements will be in compliance with current FAA design circulars.

**SELECTION SUMMARY:**

Consultant selection was based on qualifications pursuant to the Professional Services Procurement Act, 23 CFR, Part 172, and Subchapter A, Chapter 2254, of the Texas Local Government Code. There were three offerors, all with local offices. The recommendation of staff is to award the contract to the offeror based on best demonstrated understanding of the project and FAA requirements, the experience of the project manager and team, and approach to completing the work.

**CONTRACT VARIANCE:**

N/A

**PROTEST**

N/A

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$876,370.00  
Funding Source: FAA Grant and Airport Enterprise  
Account: G62A204002 - 562-62330-580260-3080/3010

Taxiway Golf Reconstruction

Revised 2/23/2022-V2 – Previous Versions Obsolete

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?   X   YES        NO

PRIMARY DEPARTMENT: El Paso International Airport  
SECONDARY DEPARTMENT:

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

**DEPARTMENT HEAD:**

Assistant Director Capital Improvement

*Jerry DeMuro* for  
Yvette Hernandez, P.E. City Engineer

## RESOLUTION

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

That the City Manager be authorized to sign an Agreement for Professional Services by and between the CITY OF EL PASO and Parkhill, Smith & Cooper, Inc., a domestic for-profit corporation for a project known as "EPIA-Taxiway Golf Reconstruction" for an amount not to exceed \$876,370.00; that the City Engineer is authorized to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and to approve Additional Services for an amount not to exceed \$50,000.00 if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount of \$976,370.00; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2022.

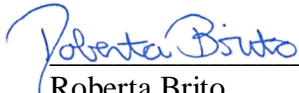
### CITY OF EL PASO:

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


### ATTEST:

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

### APPROVED AS TO FORM:

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

### APPROVED AS TO CONTENT:

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

## CITY OF EL PASO A/E SELECTION SCORESHEET

Rater	SOLICITATION #2022-0521 ARCHITECT & ENGINEERING SVCS. FOR EPIA - TAXIWAY GOLF RECONSTRUCTION		
	GARVER	PARKHILL	RS&H
Rater 1	73	75	66
Rater 2	74	80	57
Rater 3	74	77	54
<b><u>Total rater scores</u></b>	221	232	177
References	10	10	9
<b><u>OVERALL SCORE</u></b>	<b><u>231</u></b>	<b><u>242</u></b>	<b><u>186</u></b>

# AN AGREEMENT FOR PROFESSIONAL SERVICES

**WHEREAS**, the Owner intends to engage the Consultant to perform professional services for the project known as “Taxiway Golf Reconstruction”, hereinafter referred to as the **“Project”**, as further described in **Attachment “A”**; and

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

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

## ARTICLE II. PROJECT

**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 construction of 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 each Project's the construction contract. 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. 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 **\$876,370.00** for all basic services and reimbursables performed pursuant to this Agreement.

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of the Project and the increased amounts are within the appropriate budget identified for the identified Project.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding **\$50,000.00** must have prior approval by City Council through written amendment to 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 for such Basic and Additional Services at the rates which is attached hereto as **Attachment "B"**. Payments to the Consultant shall be made pursuant to **Attachment "D"**.

**3.2 CONSULTANT'S SERVICES.** The Basic Services to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C"**.

**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 PROJECT CONSTRUCTION BUDGET AND TIME.** The Consultant acknowledges that the total project budget for the Project allocates is **\$876,370.00**, which is to include all features essential to the operation of the Project for its intended use as described in the Scope of Services and Project budget in **Attachment "A"**. The Consultant does hereby agree to design the Project such that the Consultant's final agreed cost opinions for the construction of the Project, including all features essential to its intended use, is within the above budgeted amount for the base bid. If the Consultant's cost opinions exceed the Project Budget at any time, the Consultant shall make recommendations to the Owner to adjust the Project's size or quality and the Owner shall cooperate with the Consultant to adjust the scope of the Project. If all responsible bids exceed the City approved Consultant's final cost opinions by more than **ten percent (10%)**, the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

**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 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 **Attachments “C” and “D”**.

**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 \$1,000,000.00 on a claim 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 "D"**. 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 OPINION OF PROBABLE COST.** As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within **ten percent (10%)** of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent (10%)**, the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations

**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 "D"** 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 inspection and photo copying of selected documents from time to time at reasonable times (limited to Consultant's office hours) and places upon reasonable notice.

#### **7.6 CONTRACTING INFORMATION**

The Contractor must preserve all contracting information related to this Contract as provided by the records retention schedule requirements applicable to the City for the duration of this Contract. Contractor will promptly provide the City any contracting information related to this Contract that is in the custody or possession of the Contractor on request of the City. On completion of this Contract, Contractor will either provide at no cost to the City all contracting information related to this Contract that is in the custody or possession of the Contractor or preserve the contracting information related to this Contract as provided by the records retention requirements applicable to the City.

**7.7 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

**7.8 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

**7.9 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

**7.10 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.



**7.11 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

**7.12 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner:                      The City of El Paso  
   Attn: City Manager  
   P. O. Box 1890  
   El Paso, Texas 79950-1890

With a Copy to:                      The City of El Paso  
   Attn: City Engineer  
   P. O. Box 1890  
   El Paso, Texas 79950-1890

To the Consultant:                      Parkhill, Smith & Cooper, Inc.  
   Attn: Mark D. Haberer  
   501 W. San Antonio Ave.  
   El Paso, Texas 79901

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.

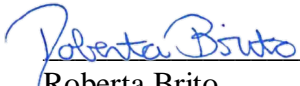
**7.15 TEXAS GOVERNMENT CODE.** In accordance to Chapter 2274 of the Texas Government Code, as amended from time to time, the Consultant represents and warrants to the Owner the following: (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm 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:**

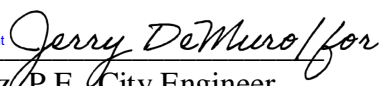
**CITY OF EL PASO:**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

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

**APPROVED AS TO CONTENT:**

Assistant Director Capital Improvement   
\_\_\_\_\_  
Yvette Hernandez, 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 \_\_\_\_\_, 2022,  
by **Tomás González**, as **City Manager** of the **City of El Paso, Texas**.

\_\_\_\_\_  
**Notary Public, State of Texas**

**My commission expires:**

\_\_\_\_\_

*(Signatures begin on following page)*

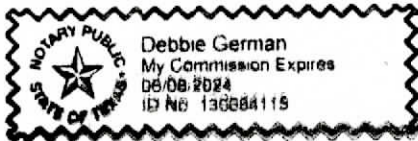
**CONSULTANT:**


By:   
Name: Mark D. Haberer, PE  
Title: Principal

**ACKNOWLEDGEMENT**

THE STATE OF Texas §  
§  
COUNTY OF Lubbock §

This instrument was acknowledged before me on this 11th day of August, 2022,  
by Mark D. Haberer, as Principal, on behalf of Consultant.



  
Notary Public, State of Texas

**My commission expires:**

2024.06.06

**ATTACHMENT “A”  
SCOPE OF SERVICES**

## **ATTACHMENT “A”**

### **Scope of Work**

The El Paso International Airport's objectives are to remove and replace asphalt on Taxiway G in accordance with current design standards. Removal and replacement of taxiway edge lights, electrical conduit installation, new guidance and distance remaining signs will also be included. The target year of construction is 2023. See schematic below for informational purposes only.

#### **DESIGN CRITERIA**

Taxiway G Reconstruction consists of full depth demolition of the existing asphalt pavement section and reconstruction of an asphalt pavement section to existing paving limits.

The new asphalt surface will be completed to approximately the existing grades, with verification of Federal Aviation Administration (FAA) surface gradient criteria and possible minor grade corrections.

The project includes new taxiway shoulders, new taxiway edge lights, and conversion of existing taxiway incandescent signs to LED. The project will be designed in accordance with the latest FAA design standards as outlined in FAA Advisory Circular (AC) 150/5300-13A. The pavement will be designed with FAARFIELD per AC 150/5320-6G

#### **SERVICES REQUIRED**

##### **Investigation**

All investigations include but are not limited to survey, geotechnical, utility coordination, drainage, FAA infrastructure coordination.

##### **Utility Investigation, Services and Coordination**

The consultant shall coordinate the project design with all utility companies that will be affected by the improvements. The purpose is to minimize utility relocation without compromising design standards. The consultant shall submit all applications to the utilities on behalf of the City, however, the City will pay all utility service fees. It is not the consultant's responsibility to pull the installation of the service, all activities required as part of the installation of the service will be coordinated and performed by the contractor doing the work.

All utility service requests shall be completed and submitted by the consultant before the construction documents are submitted for bid advertisement. The consultant shall prepare all metes and bounds descriptions for utility easements and/or vacations. The consultant shall coordinate easements and/or vacations with City staff and the respective utility companies. All documents and coordination efforts by the consultant shall be completed by or before the Final Design Phase due date.

As necessary, the consultant shall pothole utilities to determine both the vertical and horizontal alignments. This information will allow for a more complete project design and will minimize the potential conflicts during construction.

The consultant shall obtain all available horizontal and vertical information on utility lines, valves, covers, manholes, etc. from the different utility companies during the Preliminary Design Phase,

and these existing utility structures shall be shown on the Preliminary Design Phase plan submittal.

As appropriate, the consultant shall correspond and meet with all affected utility companies to discuss the proposed design and to determine if a relocation is needed. If a relocation is required, the extent of the relocation will be determined. If a dispute arises, the consultant shall promptly set up a meeting between the City Project Manager and the utility company to discuss and resolve the issue.

The consultant, on behalf of the City, shall request that all affected utility companies relocate the services that are in conflict with the project improvements. However, each utility company can request that the City include, as part of the bid package, the relocation of their utility lines, provided that the utility company enters into an agreement with the City and provides the funding. The consultant shall coordinate this effort with the utility companies and advise them of the City's policy to minimize pavement cuts on new roadways.

All correspondence and meeting minutes shall be submitted to the City at the completion of each design phase. The construction documents shall show all utility company contacts, and shall clearly show all existing and proposed utility lines. All documents and coordination efforts by the consultant shall be completed by or before the Final Design Phase due date. The consultant shall submit all utility clearance letters from each utility company by or before the project is advertised for bid.

-Existing utility crossings include but are not limited to: gas, FAA communication cables, FAA electrical, and EPIA electrical.

## **Planning**

The designer shall assist the Owner in developing the phasing requirements per the requirements noted above

## **Soils Investigation**

The designer shall provide a subsurface soil investigation study for the project and should be submitted to the Owner for a review. Boring log information can be shown on construction documents with appropriate notes and disclaimers that will minimize change orders. The consultant shall provide pavement design for concrete. Soil investigation shall meet FAA requirements.

## **Surveys**

The designer shall provide all topographic and horizontal surveys for this project and to meet AC-18 requirements. The consultant will follow through with submittal thru the AGIS portal in accordance with AC 15, 17 and 18 requirements.

## **Design Analysis and Project Design**

The consultant shall perform a design analysis for each project to ensure public safety, and all design analysis must comply with the applicable City, County, State, FAA, and other applicable Federal regulations.

Design shall meet all City requirements for the project and shall be performed in phases, in accordance with the Project Schedule Section below.

The consultant shall determine the discipline of the State of Texas licensed designers that are required to perform this type of project design.

Besides complying with local codes, the consultant shall comply, at a minimum, with the City of El Paso's Design and Construction Standards, the City's Grading Ordinance, the City's Engineering Department Drawing Guidelines, the National Association of City Transportation Official's guidance and the Dark Sky Ordinance as applicable.

The consultant shall ensure that the project design is completed in compliance with all federal, state and local regulations and ordinances.

Early in the design the consultant shall coordinate the selection of materials and equipment with the appropriate City support departments.

### **Bidding**

The consultant shall submit the following for bidding:

- Full and complete sealed set of drawings both in hard copy and electronic format
- Full and complete sealed set of technical specifications both in hard copy and electronic format
- Detailed scope of work both in hard copy and electronic format
- Detailed unit price bid proposal form both in hard copy and electronic format
- Detailed real world value cost estimate in hard copy and electronic format

During the bidding process, the consultant shall assist the Owner with, but not limited to the following items: respond to all questions from perspective bidders, attend a pre-bid conference, and if required prepare addendums. The bids shall be advertised as a unit price contract and selection of the bidders shall be a "low bid" selection. Procurement documents shall follow FAA requirements.

### **Construction**

During the construction, the City may request that the consultant provide construction observation services, to be billed on a time and materials basis. These services may include but are not limited to:

- Attendance at the weekly construction meeting scheduled by the City Project Manager
  - Weekly project site visits and development of a project observations report within three (3) business days of the visit
- Respond to Requests for Information (RFIs) from the project contractor
- Review and approve contractor technical submittals within a schedule previously established by the City Project Manager

- Providing advice and recommendations to the Owner
- Participate in punch list inspections and produce punch lists for submittal to Owner
- Produce and provide (24" X 36") "as-built" drawings in an electronic format.

### **Technical Specifications**

The consultant shall prepare and provide technical specifications. The specifications shall be based on FAA requirements. . ***Sole sourcing will not be allowed.*** All specifications must include type of materials listed in the construction drawings, placement method and quality control and quality assurance testing. The specifications shall correlate with unit price format. All specifications must comply with established specification standards and formats. The consultant shall provide both design and performance specifications.

### **Special Permits, and Other Land Use Permits**

The consultant shall submit the required number of plan sets to the City of El Paso Development Department. The consultant shall be responsible for obtaining the required approvals from the City of El Paso Planning and Inspection Department before the construction documents are submitted for bid advertisement. As applicable, it shall be the responsibility of the consultant to follow up on the review and approval process with the City of El Paso Planning and Inspections Department. *The consultant shall not be responsible for pulling the permit.* The pulling of the permit shall be the responsibility of the contractor. It is the responsibility of the City of El Paso Planning and Inspections Department to review the grading and drainage, storm water pollution prevention plan, and electrical permit requirements.

The consultant shall prepare all documents that include, but are not limited to, metes and bounds descriptions, site plans, elevations, layouts, and applications for permits. The consultant shall represent the City to make presentations and answer questions at the Open House Meetings and at City Council meetings, as necessary.

### **Storm Water Pollution Prevention Plan**

The consultant shall prepare and provide a storm water pollution prevention plan. The consultant shall be responsible to be knowledgeable on the storm water pollution prevention plan requirements. The storm water pollution prevention plan shall be submitted to the City of El Paso Planning and Inspections Department for review and approval.

### **Public Involvement**

As necessary the consultant shall assist the City throughout public outreach activities in providing plans/exhibits showing the improvements and how improvements will affect adjacent property owners and in identification of stakeholders. Community meetings will be held for the design phase and the consultant shall be responsible to attend and make a presentation of the improvements and answer questions.

### **Construction Safety/Management plans**

The Consultant shall prepare a Construction Safety and Phasing Plan and a Construction Management Plan in accordance with FAA, Federal, State and City regulations.

### **Environmental Issues**



The project obtained environmental clearance from the FAA

### **Construction Sequencing Plan**

The consultant shall prepare a construction sequencing plan and submit it at all design phase submittals for review. The City will review and approve the sequencing plan. The contractor shall not be given the option of developing the sequence of construction.

### **Construction Schedule**

The consultant shall meet with the City Project Manager and Construction Manager to determine the construction schedule for each phase, order of work, and which phases will be done concurrently. The meeting shall be held after pre-final plans are submitted but before the Final Design Notice to proceed is issued. The information will allow the consultant to prepare a current market cost estimate at the final design phase submittal.



# **El Paso International Airport Taxiway Golf Reconstruction**

PREPARED FOR THE CITY OF EL PASO  
FEE PROPOSAL (REV2)  
JULY 2022

July 25, 2022

Ms. Shane Brooks, Capital Improvements Program Administrator  
El Paso International Airport  
6701 Convair Road  
El Paso Texas 79925

Re: El Paso International Airport - TWY Golf Reconstruction (REV 2 Fee Proposal)

Dear Ms. Brooks:

We are thrilled to partner alongside the El Paso International Airport (EPIA) as you undertake the TWY Golf Reconstruction project. Our commitment is to provide EPIA with a team who has extensive knowledge of the airport, highly specialized service, and can advance the Project on a schedule to align with anticipated FAA funding. Our team is ready! At your request, we prepared a fee proposal based on our April 21, 2022 discussion, our current understanding of requested services, feedback on our Rounds 1 and 2 scope/fee, and are hereby submitting Revision 2 for your review. A summary of our scope and assumptions follows:

### **SUMMARY OF PROPOSED PARKHILL SCOPE**

Please reference fee sheets included for further detail on our proposed scope.

1. We understand the Project scope to include:
  - a. Remove and replace asphalt taxiway and associated shoulders within approximate limits shown in exhibit. Reconstruction limits will extend full width of TOFA (171 ft based on ADG IIII criteria to best interface with Five-node and GA Apron projects by Garver, LLC.



- b. Remove and replace TWY G edge lights with new LEDs within limits shown.
    - c. New electrical conduit and MITL circuitry within limits shown.
    - d. Remove and replace guidance signage with LED signage within limits shown.
    - e. Host utility coordination meeting.
    - f. Drainage analysis and associated improvements for Project area. All drainage work will be coordinated with Garver who will perform the GA Apron Reconstruction project adjacent to TWY Golf.

- g. Parkhill will prepare a Stormwater Pollution Prevention Plan (SWPPP) and coordinate approval through the City of El Paso.
  - h. Construction Safety and Phasing Plan (CSPP) and Construction Management Plan (CMP), prepared and submitted to FAA for approval.
  - i. Parkhill will submit all Construction Documents to the City of El Paso for review and permitting.
  - j. PCN determination for as-designed pavement section.
  - k. Upload of final Project survey data to the FAA ADIP portal per AC 150/5300- 16, 17, and 18 standards.
  - l. Update to EPIA Signage and Marking Plan.
2. Parkhill Team will provide Design Phase, Bidding Phase, Construction Phase, and limited Closeout Phase services for Taxiway Golf Reconstruction.
3. Design Phase anticipates:
- a. Preliminary Design (60 days),
  - b. Pre-Final Design (60 days), and
  - c. Final Design (15 days) submittals,
  - d. But overarching intent is a 100% review package to FAA by February 1, 2023 and bid packet ready by April 1, 2023.
4. **TASK 2, PRELIMINARY DESIGN SERVICES:** Parkhill will undertake preliminary engineering services in accordance with FAA AC 150/5100-14E Section 1.4.2.1 to fully evaluate identified segments of Taxiway Golf and define reconstruction design scope. Preliminary Design will proceed in accordance with FAA AC 150/5100-14E Section 1.4.2.2 to prepare minimum 60% Bid Documents based on scope established. Parkhill will:
- a. Parkhill will:
    - i. Commence with a Predesign Meeting in accordance with FAA AC 150/5300-9B in person involving key Parkhill subconsultant staff. This meeting will discuss scope, Owner objectives, schedule, budget, safety/phasing, and other pertinent information. Parkhill will prepare agenda, host meeting, and issue minutes.
    - ii. Parkhill will develop a Master Project Schedule and distribute to all stakeholders for review and input. This schedule will account for all Project phases and incorporate FAA grant timing and other key constraints. Master Project Schedule will guide Project from start to finish.
    - iii. Parkhill will undertake pavement evaluation considering recommendations from FAA AC 150/5320-6F Chapter 6:
      - 1) Perform a review of historic project records per 601(a) to determine pavement section(s), age, previous rehabilitation, and other factors to benefit analysis and solution. This will involve comprehensive review and documentation of findings.
      - 2) Perform a visual inspection of Taxiway Golf segments identified herein.
      - 3) Undertake sampling and testing per 601(c) to include a direct sampling through a geotechnical investigation. Geotechnical cores are also critical in identifying existing pavement section materials. By applying geotechnical core/bore test results, pavement analyses and design are more accurate than relying on simple assumptions leading to saved construction costs. Geotechnical investigation scope is detailed in attached proposal.
      - 4) Explore various reconstruction alternatives and summarize applicability for different pavement sections and distress types. Cost information will be compiled for each reconstruction alternative. Reconstruction alternatives might include full-depth reclamation, partial-depth reclamation or full-depth reclamation.
      - 5) Alternatives will include an Opinion of Probable Cost (OPC) and associated matrix of pros/cons for Owner consideration. Additionally, based on known budget constraints and other parameters such as access/phasing, Parkhill will prepare a recommendation for reconstruction.



- iv. Prepare a 60% Plan Set to include cover sheet, sheet index, survey control, safety/phasing sheets and related details, erosion control plan and related details, reconstruction plan sheets, and pavement reconstruction details. Other plan sheets will include lighting, signage, and drainage improvements.
- v. Prepare 60% Technical Specifications per FAA AC 150/5370-10H and submit modification to standard if required.
- vi. Prepare 60% FAA General Provisions and other FAA boilerplate documentation.
- vii. Prepare a 60% Construction Management Plan (CMP) to document required QC and QA testing.
- viii. Prepare complete Construction Safety and Phasing Plan (CSPP), incorporating EPIA input.
- ix. Prepare 60% Engineer's Basis of Design Report.
- x. Perform QA/QC on project deliverables to include verification of bid items and related quantities.

b. **DELIVERABLES:** All Task 2 referenced documents will be compiled and submitted to EPIA and FAA for review. Project will be submitted to FAA OE/AAA website for airspace review. CSPP will be uploaded to FAA OE/AAA website for review. Following review by EPIA and FAA, Parkhill will host a review meeting virtually to discuss comments then issue meeting minutes.

5. **TASK 3, PRE-FINAL AND FINAL DESIGN SERVICES:** Parkhill will undertake Pre-Final and Final Design in accordance with FAA AC 150/5100-14E Section 1.4.2.2 to prepare minimum Bid Documents based on scope established in Task 2. Parkhill will structure documents to reflect Base Bid and Additive Alternate(s), if necessary.

a. Parkhill will:

- i. Prepare 90% and 100% Plan Sets to include cover sheet, sheet index, survey control, safety/phasing sheets and related details, erosion control plan and related details, reconstruction plan sheets, and pavement rehabilitation details. Other plan sheets will include lighting, signage, and drainage improvements.
- ii. Prepare 90% and 100% Technical Specifications per FAA AC 150/5370-10H and incorporate any approved modification to standard.
- iii. Prepare 90% and 100% FAA General Provisions and other FAA boilerplate documentation.
- iv. Prepare bid form for review by Purchasing Manager or others.
- v. Prepare a 90% and 100% CMP to document required QC and QA testing.
- vi. Update CSPP, incorporating EPIA and FAA input.
- vii. Update OPC to reflect 90% and 100% design.
- viii. Prepare 90% and 100% Engineer's Basis of Design Report
- ix. Perform QA/QC on project deliverables to include verification of bid items and related quantities.
- x. Assist with required local review and permitting. 90% documents will be submitted to City of El Paso BPI concurrent with submission to EPIA & FAA.
- xi. Complete FAA review checklist.

b. **DELIVERABLES:**

- i. All Task 3 referenced documents will be compiled and submitted to EPIA and FAA for review. CSPP will be uploaded to FAA OE/AAA website for a second review. Following review by EPIA and FAA, Parkhill will host a review virtually to discuss comments then issue meeting minutes.
- ii. Following review meeting and receipt of all comments, Parkhill will proceed with preparation and delivery of 100% Bid Documents.

6. **TASK 4, Bidding Phase Services:** Parkhill will undertake Bid Phase Services in accordance with FAA AC 150/5100-14E Section 1.4.2.3 and assist EPIA in all aspects of Project procurement. Parkhill will:

- a. Provide final Bid Documents for EPIA use. Documents will include Plans, Project Manual, and Bid Form. Project Manual will contain FAA boilerplate, Technical Specifications, and all required appendices. We anticipate City of El Paso will add necessary front-end documents and perform final compilation for advertisement.
- b. Prepare recommendation for liquidated damages and submit to EPIA.
- c. Lead on-site Prebid Meeting per FAA AC 150/5300-9B.

- d. Respond to Bidder questions and issue Addenda as required.
  - e. Assist with analysis of Bids and prepare a Recommendation for Award.
  - f. Prepare Conformed Construction Documents for issuance to EPIA, FAA, and Contractor.
7. **TASK 5, CONSTRUCTION ADMINISTRATION SERVICES:** Parkhill will undertake Construction Administration Services in accordance with FAA AC 150/5100-14E Section 1.4.2.4 and assist EPIA with Project Administration on an hourly rate basis. All Construction Management and RPR duties to be by others. Parkhill will:
- a. Attend Preconstruction Meeting in person.
  - b. Attend Prepave Meeting in person.
  - c. Attend Progress Meetings virtually.
  - d. Review submittals.
  - e. Respond to RFIs.
  - f. Assist with preparation of change orders.
  - g. Correspond with Owner and Construction Manager.
  - h. Periodically visit site to observe construction.
  - i. Participate in final Project inspection.
8. **TASK 6, RESIDENT PROJECT REPRESENTATIVE SERVICES:** Excluded from Parkhill's scope.
9. **TASK 7, CLOSEOUT PHASE SERVICES:** Parkhill will undertake Closeout Phase Services in accordance with FAA AC 150/5100-14E Section 1.4.2.5 and assist EPIA and Construction Manager with Project Closeout. Primary responsibilities for Project Closeout and the Project Final Report by Construction Manager. Parkhill will:
- a. Prepare Record Drawings based on data provided by Construction Manager and Contractor.
  - b. Update EPIA signage plan.
  - c. Prepare and submit FAA AGIS information in accordance with AC 150/5300-16, 17, and 18.
  - d. Determine as-designed PCN.
10. **TASK 8, SUBCONSULTANT SERVICES FOR DESIGN:** Parkhill will undertake Special Services in accordance with FAA AC 150/5100-14E Section 1.5 as necessary to support design. Parkhill will retain a subconsultant for:
- a. topographic survey.
  - b. geotechnical investigation.
  - c. pavement analysis.
  - d. cost estimating and independent review.
11. **TASK 9, SUBCONSULTANT SERVICES FOR CONSTRUCTION:** Parkhill will undertake Special Services in accordance with FAA AC 150/5100-14E Section 1.5 as necessary to support construction. Parkhill will retain a subconsultant for:
- a. assistance with lighting and signage.
  - b. assistance with pavement quality.
  - c. FAA AGIS work.

#### **ASSUMPTIONS**

- 1. Design fleet mix provided by EPIA.
- 2. Project scope does not extend beyond width of TOFA.
- 3. Utility locates will be part of the standard "one call" process and any marked utilities will be documented by our surveyor based on markings alone. Utilities not located as part of the "one call" process or utilities not documented on record drawings or noted during interviews with EPIA or FAA personnel may be subject to change order.
- 4. Parkhill pavement design and plan set will account for an asphalt pavement section only. A concrete pavement alternative will not be included.

#### **EXCLUSIONS**

- 1. Construction Management and RPR services are not included and assumed covered by others.
- 2. Parkhill scope does not include design and construction oversight effort related to relocation or adjustment of franchise utilities.
- 3. Subsurface utility engineering (SUE) services.
- 4. New aerial imagery excluded from FAA AGIS services.

5. Falling-Weigh Deflectometer Analysis
6. NEPA Environmental.
7. QA Construction Materials Testing.
8. QA Surveying during construction.
9. Complete drainage analysis and review of upstream and downstream stormwater systems is not included in fee proposal.
10. Survey for as-builts/record drawings. Parkhill will rely on Construction Manager or Contractor to provide required data.
11. Closeout report by Construction Manager, except for items noted in Parkhill scope.
12. Updates to Airport Lighting Control System.

**FEE SUMMARY**

Based on scope of work and assumptions indicated, Parkhill is pleased to submit the following fee summary for EPIA consideration:

**PARKHILL TASK BASIS**

Task 2PDS – Preliminary Design Services	\$176,250
Task 3FDS – Pre-Final/Final Design Services	\$196,300
Task 4BID – Bid Phase Services	\$24,300
Task 5CON – Construction Phase Services	\$189,900
Task 7CLO – Closeout Phase Services	\$23,900
Task 8SSD – Subconsultant Services for Design	\$199,650
Task 9SSC – Subconsultant Services for Construction	\$66,070
<b>TOTAL</b>	<b>\$876,370</b>

**PROJECT PHASE BASIS**

Geotechnical Investigation	\$51,570
Topographical Survey	\$46,100
Design Phase	\$474,530
Bidding Phase	\$28,360
Construction	\$225,280
Closeout Phase	\$23,900
Post-Construction AGIS	\$26,630
<b>TOTAL</b>	<b>\$876,370</b>

Please review and contact me directly at [mhaberer@parkhill.com](mailto:mhaberer@parkhill.com) or 806.473.3600 with anything further. Thank you again for this opportunity!

Sincerely,



Mark D. Haberer, PE  
Principal-in-Charge / Project Manager

MDH/dg  
Enclosures

**ATTACHMENT “B”  
CONSULTANT’S FEE PROPOSAL AND HOURLY RATES**



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# DETAILED FEE PROPOSAL

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# Parkhill Detailed Fee Proposal



## Project Fee and Budget Sheet

(Hourly/Billing Rates)

Today's Date: July 23, 2022

Prepared By: Haberer

Principal: Haberer

Project Manager: Haberer

Project Name: Reconstruction of Taxiway G

Project Number: 3130.00

Task/Discipline: 2PDS

Projected Start Date: August 23, 2022

Fee (Revenue) Type: Lump Sum

Markup on Direct Expenses: 5.00%

Markup on Reimbursables: 5.00%

### Fee Costs Summary

(Profit and Markup Included in Total Fee)

Labor Cost: \$166,420

Direct Consultants: \_\_\_\_\_

Direct Expenses: \$9,366

Reimbursable Consultants: \_\_\_\_\_

Reimbursable Expenses: \_\_\_\_\_

Total Fee: \$176,254

### Fee Summary

(OH and Profit in Labor, Markup included in Directs and Reimbursables)

Labor: \$166,420

Directs: \$9,834

Subtotal: \$176,254

Reimbursables: \_\_\_\_\_

Total Fee: \$176,254

\$176,250

Parkhill Detailed Fee Proposal (cont.)

Labor Costs																	
Project:		Reconstruction of Taxiway G				Project Number: 3130		Task/Discipline: 2POS		Current Fee: \$176,254							
Task/Discipline	Category	PRELIMINARY DESIGN															
		1		2		3		4		5		6		7		8	
		Civil/Structural		Civil/Structural		Civil/Structural		Civil/Structural		Civil/Structural		Civil/Structural		Civil/Structural		Civil/Structural	
		PL VII - Sector Director CV		PL VII - Project Civil		PL VI - Project Civil		PL V - Civil Project		PL III - Civil Engineer CV-		PL II - Civil Engineer CV-		Support		Support	
		STR		Engineer CV-STR		Engineer CV-STR		Engineer CV-STR		STR		STR		STR		STR	
Resource (Employee) Name (Blank if not known)		\$307.00		\$307.00		\$257.00		\$239.00		\$170.00		\$177.00		\$111.00		\$111.00	
Subtask/Phase		Hours		Hours		Hours		Hours		Hours		Hours		Hours		Hours	
Project Management																	
Coordinate subconsultant field work		8						8									
Coordinate project staffing		8															
Project management specific to drainage analysis				4													
Monthly invoicing		2								2							
Weekly coordination with EPIA PM		3															
Meetings																	
Project scoping meeting virtually		0.5						0.5									
Pre-design meeting in El Paso, including minutes		32						12				12				2	
Visual inspection of project site (in conjunction with kickoff meeting)		3						3				3				1	
Utility coordination meeting in El Paso (in conjunction with kickoff meeting), including minutes		2														1	
Internal weekly design team meetings, including minutes		4		4				4				4				24	
Virtual progress meeting with EPIA, including minutes (assume 2)		2		2				2				2				2	
Drainage analysis review meeting with CoEP				2								2				4	
Preliminary design phase review meeting (virtual), including minutes		2		2				2								2	
Design/Plan Preparation																	
Obtain and review survey data																	
Obtain and review geotechnical investigation data		1		1				2				4				6	
Obtain and review FWD data		2		2												6	
Develop Preliminary Taxiway Golf geometry		1						2				6				9	
Finalize fleet mix and operations data		1		1								3				3	
Review Taxiway geometry		1						2				4				7	
Develop preliminary SWPPP				20								24				40	
Create Civil 3D model/ explore existing grading and develop grading concepts		1						4								16	
Analyze necessary utility modifications		1		4								2				13	
Perform drainage analysis and coordinate with CoEP		2						40				4				20	
Design drainage improvements				4								16				28	
Document design in Design Basis Report		2		2				4				8				12	
Complete preliminary drawings (50-60 sheets)																	
- cover sheet (1 sheet)																1	
- summary of quantities, location map and sheet index (1 sheet)								0.5				1				2	
- project airport layout plan, project general notes (1 sheet)								0.5				1				2	
- storm water pollution prevention plan (SWPPP) (1 sheet)				1								2				2	
- storm water pollution prevention plan (site plan) (2 sheets)				2								4				4	
- construction phasing, safety plan and details (8 sheets)		2						24				24				50	
- demolition plan (6 sheets)								6				12				18	
- project layout plan (6 sheets)								6				12				18	
- project grading plan (6 sheets)		2						6				12				20	
- drainage infrastructure plan (2 sheets)				4								6				19	
- marking layout plan (6 sheets)								3				6				9	
- electrical lighting, sign and circuitry plan (6 sheets)		2						12				18				32	
- miscellaneous demolition details (1 sheet)								2				4				6	
- miscellaneous paving and drainage details (2 sheets)		1						6				8				7	
- miscellaneous electrical details (2 sheets)		1						6				8				15	

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# Parkhill Detailed Fee Proposal (cont.)

Direct Expenses		Project: Reconstruction of Taxiway CProject No: 3130		Task: 2PDS	Current Fee: \$176,254
Expenses included in lump sum fee. Not billed to client.					
					Amount
Direct Consultant Costs					
611 Structural Consultant					
612 Mech/Elec Consultant					
613 Environ/Civil Consultant					
614 Architectural Consultant					
615 Testing Consultant (Geotech, CMT, TAB, etc.)					
616 Surveying Consultant					
617 Interior Design Consultant					
618 Other Consultant - Kitchen / Food Consultant					
618 Other Consultant - Acoustical Consultant					
618 Other Consultant - AV/ IT Consultant					
618 Other Consultant					
Total Direct Consultants					
Direct Expense Costs					
621 Travel					
Motel	3 Days @	3 Men @	\$140.00 /Man-day	=	\$1,260.00
Air Travel	3 Air Fare @	3 Men @	\$650.00 /Man	=	\$5,850.00
Parking	6 Days @	\$15.00 /Day		=	\$90.00
Car Rental	2 Days @	\$120.00 /Day		=	\$240.00
Mileage	40 Miles @	\$0.585 @	3 Trips	=	\$70.20
Subtotal					\$7,510
622 Reproductions					
Blackline Prints					
34" x 22"	Shts @	\$2.50 /Sht @	Sets =		
36" x 24"	Shts @	\$2.75 /Sht @	Sets =		
42" x 30	Shts @	\$3.25 /Sht @	Sets =		
Other	sf @	\$0.55 /sf @	Sets =		
Mounting Foam Board	Boards @	\$10.00 /ea @			
Printing:					
Set Up Fee	60 Originals @	\$0.15 /Sht @	Submittals =		
8-1/2" x 11" B&W	800 Originals @	\$0.09 /Sht @	5 Sets =	\$360.00	
8-1/2" x 11" Color	Originals @	\$0.55 /Sht @	Sets =		
11" x 17" B&W	30 Originals @	\$0.18 /Sht @	5 Sets =	\$27.00	
11" x 17" Color	30 Originals @	\$1.05 /Sht @	5 Sets =	\$157.50	
Binding Cost	5 Sets @	\$2.00 /Set	=	\$10.00	
Misc Printing/Copying	500 Shts @	\$0.09 /Sht	=	\$45.00	
Scan to file					
Burn to CD/DVD	CD/DVD @	\$13.50 /each	=		
Scan Specs	Originals @	\$0.15 /Sht	=		
Scan Drawings	Originals @	\$1.50 /Sht	=		
Subtotal					\$600
623 Models/Renderings/Photos					
	Shots @	/Shot			
624 Telephone					
20 Calls @	\$2.00 /Call			\$40	
625 Meals					
6 Days @	3 Men @	\$64.00 /Man-day		\$1,152	
626 Field Supplies					
628 Postage					
2 Mailings @	\$2.00 /Mailing (Standard)			\$4	
628 Postage					
2 Mailings @	\$30.00 /Mailing (Overnight)			\$60	
629 Publications					
630 Misc Reimbursable Exp					
632 Temporary Personnel					
634 Office Supplies					
635 CADD					
636 Field Equip Rental					
639 License & Regulation Fee					
643 NM Gross Receipt Tax					
647 Computer Supplies					
Total Direct Expenses					\$9,366

# Parkhill Detailed Fee Proposal (cont.)



## Project Fee and Budget Sheet

(Hourly/Billing Rates)

Today's Date: July 23, 2022

Prepared By: Haberer

Principal: Haberer

Project Manager: Haberer

Project Name: Reconstruction of Taxiway Golf

Project Number: 3130.00

Task/Discipline: 3FDS

Projected Start Date: August 23, 2022

Fee (Revenue) Type: Lump Sum

Markup on Direct Expenses: 5.00%

Markup on Reimbursables: 5.00%

### Fee Costs Summary

(Profit and Markup Included in Total Fee)

Labor Cost: \$194,597

Direct Consultants: \_\_\_\_\_

Direct Expenses: \$1,577

Reimbursable Consultants: \_\_\_\_\_

Reimbursable Expenses: \_\_\_\_\_

Total Fee: \$196,252

### Fee Summary

(OH and Profit in Labor, Markup included in Directs and Reimbursables)

Labor: \$194,597

Directs: \$1,656

Subtotal: \$196,252

Reimbursables: \_\_\_\_\_

Total Fee: \$196,252

\$196,300

Parkhill Detailed Fee Proposal (cont.)

Labor Costs									
Project: Reconstruction of Taxiway Golf									
Task/Discipline: 3FDS									
Project Number: 3130									
Current Fee: \$196,252									
Category									
Staff Title - Level									
Hourly/Billing Rate									
Resource (Employee) Name (Blank if not known)									
Task/Discipline									
Subtask/Phase									
Trips									
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# Parkhill Detailed Fee Proposal (cont.)

Direct Expenses		Project: econstruction of Taxiway GcProject No: 3130		Task: 3FDS		Current Fee: \$196,252	
Expenses included in lump sum fee. Not billed to client.							
							Amount
Direct Consultant Costs							
611 Structural Consultant							
612 Mech/Elec Consultant							
613 Environ/Civil Consultant							
614 Architectural Consultant							
615 Testing Consultant (Geotech, CMT, TAB, etc.)							
616 Surveying Consultant							
617 Interior Design Consultant							
618 Other Consultant - Kitchen / Food Consultant							
618 Other Consultant - Acoustical Consultant							
618 Other Consultant - AV/ IT Consultant							
618 Other Consultant							
Total Direct Consultants							
Direct Expense Costs							
621 Travel							
Motel	1 Days @	1 Men @	\$140.00 /Man-day	=	\$140.00		
Air Travel	1 Air Fare @	1 Men @	\$650.00 /Man	=	\$650.00		
Parking	Days @		/Day	=			
Car Rental	Days @		/Day	=			
Mileage	30 Miles @	\$0.585 @	1 Trips	=	\$17.55		
Subtotal						\$808	
622 Reproductions							
Blackline Prints							
34" x 22"		Shts @	\$2.50 /Sht @	Sets =			
36" x 24"		Shts @	\$2.75 /Sht @	Sets =			
42" x 30		Shts @	\$3.25 /Sht @	Sets =			
Other		sf @	\$0.55 /sf @	Sets =			
Mounting Foam Board		Boards @	\$10.00 /ea @				
Printing:							
Set Up Fee	60 Originals @	\$0.15 /Sht @	Submittals =				
8-1/2" x 11" B&W	800 Originals @	\$0.09 /Sht @	5 Sets =	\$360.00			
8-1/2" x 11" Color	Originals @	\$0.55 /Sht @	Sets =				
11" x 17" B&W	30 Originals @	\$0.18 /Sht @	5 Sets =	\$27.00			
11" x 17" Color	30 Originals @	\$1.05 /Sht @	5 Sets =	\$157.50			
Binding Cost	5 Sets @	\$2.00 /Set	=	\$10.00			
Miscellaneous Printing	500 Shts @	\$0.09 /Sht	=	\$45.00			
Scan to file							
Burn to CD/DVD		CD/DVD @	\$13.50 /each	=			
Scan Specs		Originals @	\$0.15 /Sht	=			
Scan Drawings		Originals @	\$1.50 /Sht	=			
Subtotal						\$600	
623 Models/Renderings/Photos							
		Shots @	/Shot				
624 Telephone							
20 Calls @	\$2.00 /Call				\$40		
625 Meals							
1 Days @	1 Men @	\$64.00 /Man-day			\$64		
626 Field Supplies							
628 Postage							
3 Mailings @	\$2.00 /Mailing (Standard)				\$6		
628 Postage							
2 Mailings @	\$30.00 /Mailing (Overnight)				\$60		
629 Publications							
630 Misc Reimbursable Exp							
632 Temporary Personnel							
634 Office Supplies							
635 CADD							
636 Field Equip Rental							
639 License & Regulation Fee							
643 NM Gross Receipt Tax							
647 Computer Supplies							
Total Direct Expenses						\$1,577	

# Parkhill Detailed Fee Proposal (cont.)



## Project Fee and Budget Sheet

(Hourly/Billing Rates)

Today's Date: July 23, 2022

Prepared By: Haberer  
Principal: Haberer  
Project Manager: Haberer

Project Name: Taxiway Golf Reconstruction  
Project Number: 3130.00  
Task/Discipline: 4BID  
Projected Start Date: August 23, 2022

Fee (Revenue) Type: Hourly Rate w/Max  
Markup on Direct Expenses: 5.00%  
Markup on Reimbursables: 5.00%

### Fee Costs Summary

(Profit and Markup Included in Total Fee)

Labor Cost: \$21,828  
  
Direct Consultants: \_\_\_\_\_  
  
Direct Expenses: \_\_\_\_\_  
  
Reimbursable Consultants: \_\_\_\_\_  
  
Reimbursable Expenses: \$2,399  
  
**Total Fee: \$24,347**

### Fee Summary

(OH and Profit in Labor, Markup included in Directs and Reimbursables)

Labor: \$21,828  
  
Directs: \_\_\_\_\_  
  
Subtotal: \$21,828  
  
Reimbursables: \$2,519  
  
**Total Fee: \$24,347**

\$24,300

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# Parkhill Detailed Fee Proposal (cont.)

Reimbursable Expenses		Project: Taxiway Golf Reconstruction		Project No: 3130		Task: 4BID		Current Fee: \$24,347	
Expenses NOT included in lump sum fee. These are billed to client, including markup, if allowed.									
									Amount
Reimbursable Consultant Costs									
511 Structural Consultant									
512 Mech/Elec Consultant									
513 Environ/Civil Consultant									
514 Architectural Consultant									
515 Testing Consultant (Geotech, CMT, TAB, etc.)									
516 Surveying Consultant									
517 Interior Design Consultant									
518 Other Consultant - Kitchen / Food Consultant									
518 Other Consultant - Acoustical Consultant									
518 Other Consultant - AV/ IT Consultant									
518 Other Consultant									
Total Reimbursable Consultants									
Reimbursable Expenses									
521 Travel									
Motel	1 Days @	2 Men @	\$140.00 /Man-day	=	\$280.00				
Air Travel	1 Air Fare @	2 Men @	\$650.00 /Man	=	\$1,300.00				
Parking	4 Days @	\$15.00 /Day		=	\$60.00				
Car Rental	1 Days @	\$120.00 /Day		=	\$120.00				
Mileage	30 Miles @	\$0.585 @	2 Trips	=	\$35.10				
					Subtotal	\$1,795			
522 Reproductions									
Blackline / Color Plots									
34" x 22"		Shts @	\$2.50 /Sht @	Sets =					
36" x 24"		Shts @	\$2.75 /Sht @	Sets =					
42" x 30		Shts @	\$3.25 /Sht @	Sets =					
Other		sf @	\$0.55 /sf @	Sets =					
Mounting Foam Board		Boards @	\$10.00 /ea @						
Printing:									
Set Up Fee		Originals @	\$0.15 /Sht @	Submittals =					
8-1/2" x 11" B&W		Originals @	\$0.09 /Sht @	Sets =					
8-1/2" x 11" Color		Originals @	\$0.55 /Sht @	Sets =					
11" x 17" B&W		Originals @	\$0.18 /Sht @	Sets =					
11" x 17" Color		Originals @	\$1.05 /Sht @	Sets =					
Binding Cost		Sets @	\$2.00 /Set	=					
Miscellaneous Pricing	200	Shts @	\$0.09 /Sht	=	\$18.00				
Scan to file									
Burn to CD/DVD		CD/DVD @	\$13.50 /each	=					
Scan Specs		Originals @	\$0.15 /Sht	=					
Scan Drawings		Originals @	\$1.50 /Sht	=					
					Subtotal	\$18			
523 Models/Renderings/Photos									
		Shots @	/Shot						
524 Telephone									
20	Calls @	\$2.00	/Call		\$40				
525 Meals									
4	Days @	2 Men @	\$64.00 /Man-day		\$512				
526 Field Supplies									
528 Postage									
2	Mailings @	\$2.00 /Mailing	(Standard)		\$4				
1	Mailings @	\$30.00 /Mailing	(Overnight)		\$30				
530 Misc Reimbursable Exp									
532 Temporary Personnel									
534 Office Supplies									
535 CADD									
536 Field Equip Rental									
537 Interior Design Items									
539 License & Regulation Fee									
543 NM Gross Receipt Tax									
547 Computer Supplies									
Total Reimbrusable Expenses									\$2,399

# Parkhill Detailed Fee Proposal (cont.)



## Project Fee and Budget Sheet

(Hourly/Billing Rates)

Today's Date: July 23, 2022

Prepared By: Haberer  
Principal: Haberer  
Project Manager: Haberer

Project Name: Taxiway Golf Reconstruction  
Project Number: 3130.00  
Task/Discipline: 5CON  
Projected Start Date: June 1, 2023

Fee (Revenue) Type: Hourly Rate w/Max  
Markup on Direct Expenses: 5.00%  
Markup on Reimbursables: 5.00%

### Fee Costs Summary

(Profit and Markup Included in Total Fee)

Labor Cost: \$168,318  
Direct Consultants:  
Direct Expenses:  
Reimbursable Consultants:  
Reimbursable Expenses: \$20,543  
Total Fee: \$189,889

### Fee Summary

(OH and Profit in Labor, Markup included in Directs and Reimbursables)

Labor: \$168,318  
Directs:  
Subtotal: \$168,318  
Reimbursables: \$21,571  
Total Fee: \$189,889

\$189,900

FEE PROPOSAL | EL PASO INTERNATIONAL AIRPORT TAXIWAY GOLF RECONSTRUCTION | 14

# Parkhill Detailed Fee Proposal (cont.)

Reimbursable Expenses		Project: Taxiway Golf Reconstruction		Project No: 3130		Task: 5CON		Current Fee: \$189,889	
Expenses NOT included in lump sum fee. These are billed to client, including markup, if allowed.									
									Amount
Reimbursable Consultant Costs									
511 Structural Consultant									
512 Mech/Elec Consultant									
513 Environ/Civil Consultant									
514 Architectural Consultant									
515 Testing Consultant (Geotech, CMT, TAB, etc.)									
516 Surveying Consultant									
517 Interior Design Consultant									
518 Other Consultant - Kitchen / Food Consultant									
518 Other Consultant - Acoustical Consultant									
518 Other Consultant - AV/ IT Consultant									
518 Other Consultant									
Total Reimbursable Consultants									
Reimbursable Expenses									
521 Travel									
Motel	19 Days @	1 Men @	\$140.00 /Man-day	=	\$2,660.00				
Air Travel	19 Air Fare @	1 Men @	\$650.00 /Man	=	\$12,350.00				
Parking	19 Days @	\$15.00 /Day		=	\$285.00				
Car Rental	19 Days @	\$120.00 /Day		=	\$2,280.00				
Mileage	30 Miles @	\$0.585 @	19 Trips	=	\$333.45				
					Subtotal	\$17,908			
522 Reproductions									
Blackline / Color Plots									
34" x 22"	Shts @	\$2.50 /Sht @	Sets =						
36" x 24"	Shts @	\$2.75 /Sht @	Sets =						
42" x 30	Shts @	\$3.25 /Sht @	Sets =						
Other	sf @	\$0.55 /sf @	Sets =						
Mounting Foam Board	Boards @	\$10.00 /ea @							
Printing:									
Set Up Fee	Originals @	\$0.15 /Sht @	Submittals =						
8-1/2" x 11" B&W	Originals @	\$0.09 /Sht @	Sets =						
8-1/2" x 11" Color	Originals @	\$0.55 /Sht @	Sets =						
11" x 17" B&W	Originals @	\$0.18 /Sht @	Sets =						
11" x 17" Color	Originals @	\$1.05 /Sht @	Sets =						
Binding Cost	Sets @	\$2.00 /Set	=						
Miscellaneous Printing	500 Shts @	\$0.09 /Sht	=	\$45.00					
Scan to file									
Burn to CD/DVD	CD/DVD @	\$13.50 /each	=						
Scan Specs	Originals @	\$0.15 /Sht	=						
Scan Drawings	Originals @	\$1.50 /Sht	=						
					Subtotal	\$45			
523 Models/Renderings/Photos									
									Shots @ /Shot
524 Telephone									40 Calls @ \$2.00 /Call \$80
525 Meals									38 Days @ 1 Men @ \$64.00 /Man-day \$2,432
526 Field Supplies									
528 Postage									9 Mailings @ \$2.00 /Mailing (Standard) \$18
528 Postage									2 Mailings @ \$30.00 /Mailing (Overnight) \$60
530 Misc Reimbursable Exp									
532 Temporary Personnel									
534 Office Supplies									
535 CADD									
536 Field Equip Rental									
537 Interior Design Items									
539 License & Regulation Fee									
543 NM Gross Receipt Tax									
547 Computer Supplies									
Total Reimbrusable Expenses									\$20,543

# Parkhill Detailed Fee Proposal (cont.)



## Project Fee and Budget Sheet

(Hourly/Billing Rates)

Today's Date: July 23, 2022

Prepared By: Haberer  
Principal: Haberer  
Project Manager: Haberer

Project Name: Taxiway Golf Reconstruction  
Project Number: 3130.00  
Task/Discipline: 7CLO  
Projected Start Date: December 1, 2023

Fee (Revenue) Type: Hourly Rate w/Max  
Markup on Direct Expenses: 5.00%  
Markup on Reimbursables: 5.00%

### Fee Costs Summary

(Profit and Markup Included in Total Fee)

Labor Cost: \$23,710  
  
Direct Consultants: \_\_\_\_\_  
  
Direct Expenses: \_\_\_\_\_  
  
Reimbursable Consultants: \_\_\_\_\_  
  
Reimbursable Expenses: \$145  
  
**Total Fee: \$23,862**

### Fee Summary

(OH and Profit in Labor, Markup included in Directs and Reimbursables)

Labor: \$23,710  
  
Directs: \_\_\_\_\_  
  
Subtotal: \$23,710  
  
Reimbursables: \$152  
  
**Total Fee: \$23,862**

 **\$23,900**



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# Parkhill Detailed Fee Proposal (cont.)

Reimbursable Expenses		Project: Taxiway Golf Reconstruction		Project No: 3130		Task: 7CLO		Current Fee: \$23,862	
Expenses NOT included in lump sum fee. These are billed to client, including markup, if allowed.									
									Amount
Reimbursable Consultant Costs									
511 Structural Consultant									
512 Mech/Elec Consultant									
513 Environ/Civil Consultant									
514 Architectural Consultant									
515 Testing Consultant (Geotech, CMT, TAB, etc.)									
516 Surveying Consultant									
517 Interior Design Consultant									
518 Other Consultant - Kitchen / Food Consultant									
518 Other Consultant - Acoustical Consultant									
518 Other Consultant - AV/ IT Consultant									
518 Other Consultant									
Total Reimbursable Consultants									
Reimbursable Expenses									
521 Travel									
Motel	Days @		Men @		/Man-day	=			
Air Travel	Air Fare @		Men @		/Man	=			
Parking	Days @				/Day	=			
Car Rental	Days @				/Day	=			
Mileage	Miles @	\$0.585	@		Trips	=			
								Subtotal	
522 Reproductions									
Blackline / Color Plots									
34" x 22"			Shts @	\$2.50 /Sht	@	Sets =			
36" x 24"			Shts @	\$2.75 /Sht	@	Sets =			
42" x 30			Shts @	\$3.25 /Sht	@	Sets =			
Other			sf @	\$0.55 /sf	@	Sets =			
Mounting Foam Board			Boards @	\$10.00 /ea	@				
Printing:									
Set Up Fee	60	Originals @	\$0.15 /Sht	@	Submittals =				
8-1/2" x 11" B&W		Originals @	\$0.09 /Sht	@	Sets =				
8-1/2" x 11" Color		Originals @	\$0.55 /Sht	@	Sets =				
11" x 17" B&W	30	Originals @	\$0.18 /Sht	@	2 Sets =	\$10.80			
11" x 17" Color	30	Originals @	\$1.05 /Sht	@	2 Sets =	\$63.00			
Binding Cost		Sets @	\$2.00 /Set		=				
Miscellaneous Printing	300	Shts @	\$0.09 /Sht		=	\$27.00			
Scan to file									
Burn to CD/DVD		CD/DVD @	\$13.50 /each		=				
Scan Specs		Originals @	\$0.15 /Sht		=				
Scan Drawings		Originals @	\$1.50 /Sht		=				
								Subtotal	
								\$101	
523 Models/Renderings/Photos									
Shots @ /Shot									
524 Telephone 5 Calls @ \$2.00 /Call									\$10
525 Meals Days @ Men @ /Man-day									
526 Field Supplies									
528 Postage 2 Mailings @ \$2.00 /Mailing (Standard)									\$4
528 Postage 1 Mailings @ \$30.00 /Mailing (Overnight)									\$30
530 Misc Reimbursable Exp									
532 Temporary Personnel									
534 Office Supplies									
535 CADD									
536 Field Equip Rental									
537 Interior Design Items									
539 License & Regulation Fee									
543 NM Gross Receipt Tax									
547 Computer Supplies									
Total Reimbrusable Expenses								\$145	

# Parkhill Detailed Fee Proposal (cont.)



## Project Fee and Budget Sheet

(Hourly/Billing Rates)

Today's Date: July 23, 2022

Prepared By: Haberer  
Principal: Haberer  
Project Manager: Haberer

Project Name: Taxiway Golf Reconstruction  
Project Number: 3130.00  
Task/Discipline: 8SSD  
Projected Start Date: August 23, 2022

Fee (Revenue) Type: Lump Sum  
Markup on Direct Expenses: 5.00%  
Markup on Reimbursables: 5.00%

### Fee Costs Summary

(Profit and Markup Included in Total Fee)

Labor Cost: \_\_\_\_\_  
  
Direct Consultants: \$190,139  
  
Direct Expenses: \_\_\_\_\_  
  
Reimbursable Consultants: \_\_\_\_\_  
  
Reimbursable Expenses: \_\_\_\_\_  
  
**Total Fee: \$199,646**

### Fee Summary

(OH and Profit in Labor, Markup included in Directs and Reimbursables)

Labor: \_\_\_\_\_  
  
Directs: \$95,469  
  
Subtotal: \$95,469  
  
Reimbursables: \_\_\_\_\_  
  
**Total Fee: \$95,469**

\$199,650

# Parkhill Detailed Fee Proposal (cont.)

<b>Direct Expenses</b>		Project: Taxiway Golf Reconstruction	Project No: 3130	Task: 8SSD	Current Fee: \$95,469
Expenses included in lump sum fee. Not billed to client.					
					Amount
<b>Direct Consultant Costs</b>					
611 Structural Consultant					
612 Mech/Elec Consultant		CP Crossno & Associates			\$33,371
613 Environ/Civil Consultant		All About Pavements, Inc.			\$18,173
615 Testing Consultant (Falling Weight Deflectometer)					
615 Testing Consultant (Geotech, CMT, TAB, etc.)		LOI Engineers			\$49,113
616 Surveying Consultant		Barragan and Associates, Inc.			\$43,900
617 Interior Design Consultant					
618 Other Consultant - Kitchen / Food Consultant					
618 Other Consultant - Acoustical Consultant					
618 Other Consultant - AV/ IT Consultant		Sunland Group (QC & Cost Estimating)			\$45,582
618 Other Consultant					
<b>Total Direct Consultants</b>					\$190,139
<b>Direct Expense Costs</b>					
621 Travel					
Motel	Days @	Men @	/Man-day	=	
Air Travel	Air Fare @	Men @	/Man	=	
Parking	Days @	/Day		=	
Car Rental	Days @	/Day		=	
Mileage	Miles @	\$0.585 @	Trips	=	
					Subtotal
622 Reproductions					
Blackline Prints					
34" x 22"	Shts @	\$2.50 /Sht @	Sets =		
36" x 24"	Shts @	\$2.75 /Sht @	Sets =		
42" x 30	Shts @	\$3.25 /Sht @	Sets =		
Other	sf @	\$0.55 /sf @	Sets =		
Mounting Foam Board	Boards @	\$10.00 /ea @			
Printing:					
Set Up Fee	Originals @	\$0.15 /Sht @	Submittals =		
8-1/2" x 11" B&W	Originals @	\$0.09 /Sht @	Sets =		
8-1/2" x 11" Color	Originals @	\$0.55 /Sht @	Sets =		
11" x 17" B&W	Originals @	\$0.18 /Sht @	Sets =		
11" x 17" Color	Originals @	\$1.05 /Sht @	Sets =		
Binding Cost	Sets @	\$2.00 /Set	=		
Laminating	Shts @	\$2.00 /Sht	=		
Scan to file					
Burn to CD/DVD	CD/DVD @	\$13.50 /each	=		
Scan Specs	Originals @	\$0.15 /Sht	=		
Scan Drawings	Originals @	\$1.50 /Sht	=		
					Subtotal
623 Models/Renderings/Photos	Shots @	/Shot			
624 Telephone	Calls @	/Call			
625 Meals	Days @	Men @	/Man-day		
626 Field Supplies					
628 Postage	Mailings @	/Mailing (Standard)			
628 Postage	Mailings @	/Mailing (Overnight)			
629 Publications					
630 Misc Reimbursable Exp					
632 Temporary Personnel					
634 Office Supplies					
635 CADD					
636 Field Equip Rental					
639 License & Regulation Fee					
643 NM Gross Receipt Tax					
647 Computer Supplies					
<b>Total Direct Expenses</b>					

# Parkhill Detailed Fee Proposal (cont.)



## Project Fee and Budget Sheet

(Hourly/Billing Rates)

Today's Date: July 23, 2022

Prepared By: Haberer  
Principal: Haberer  
Project Manager: Haberer

Project Name: Taxiway Golf Reconstruction  
Project Number: 3130.00  
Task/Discipline: 9SSC  
Projected Start Date: June 1, 2023

Fee (Revenue) Type: Hourly Rate w/Max  
Markup on Direct Expenses: 5.00%  
Markup on Reimbursables: 5.00%

### Fee Costs Summary

(Profit and Markup Included in Total Fee)

Labor Cost: \_\_\_\_\_  
  
Direct Consultants: \_\_\_\_\_  
  
Direct Expenses: \_\_\_\_\_  
  
Reimbursable Consultants: \$62,923  
  
Reimbursable Expenses: \_\_\_\_\_  
  
**Total Fee: \$66,069**

### Fee Summary

(OH and Profit in Labor, Markup included in Directs and Reimbursables)

Labor: \_\_\_\_\_  
  
Directs: \_\_\_\_\_  
  
Subtotal: \_\_\_\_\_  
  
Reimbursables: \$66,069  
  
**Total Fee: \$66,069**

\$66,070

# Parkhill Detailed Fee Proposal (cont.)

<b>Reimbursable Expenses</b>		Project: Taxiway Golf Reconstruction	Project No: 3130	Task: 9SSC	Current Fee: \$66,069
Expenses NOT included in lump sum fee. These are billed to client, including markup, if allowed.					
					Amount
<b>Reimbursable Consultant Costs</b>					
511 Structural Consultant					
512 Mech/Elec Consultant		CP Crossno & Associates			\$19,386
513 Environ/Civil Consultant		All About Pavements, Inc.			\$18,177
514 Architectural Consultant					
515 Testing Consultant (Geotech, CMT, TAB, etc.)					
516 Surveying Consultant					
517 Interior Design Consultant					
518 Other Consultant - FAA AGIS		NV5			\$25,360
518 Other Consultant - Acoustical Consultant					
518 Other Consultant - AV/ IT Consultant					
518 Other Consultant					
<b>Total Reimbursable Consultants</b>					\$62,923
<b>Reimbursable Expenses</b>					
521 Travel					
Motel	Days @	Men @	/Man-day	=	
Air Travel	Air Fare @	Men @	/Man	=	
Parking	Days @	/Day		=	
Car Rental	Days @	/Day		=	
Mileage	Miles @	\$0.585 @	Trips	=	
Subtotal					
522 Reproductions					
Blackline / Color Plots					
34" x 22"	Shts @	\$2.50 /Sht @	Sets =		
36" x 24"	Shts @	\$2.75 /Sht @	Sets =		
42" x 30	Shts @	\$3.25 /Sht @	Sets =		
Other	sf @	\$0.55 /sf @	Sets =		
Mounting Foam Board	Boards @	\$10.00 /ea @			
Printing:					
Set Up Fee	Originals @	\$0.15 /Sht @	Submittals =		
8-1/2" x 11" B&W	Originals @	\$0.09 /Sht @	Sets =		
8-1/2" x 11" Color	Originals @	\$0.55 /Sht @	Sets =		
11" x 17" B&W	Originals @	\$0.18 /Sht @	Sets =		
11" x 17" Color	Originals @	\$1.05 /Sht @	Sets =		
Binding Cost	Sets @	\$2.00 /Set	=		
Laminating	Shts @	\$2.00 /Sht	=		
Scan to file					
Burn to CD/DVD	CD/DVD @	\$13.50 /each	=		
Scan Specs	Originals @	\$0.15 /Sht	=		
Scan Drawings	Originals @	\$1.50 /Sht	=		
Subtotal					
523 Models/Renderings/Photos	Shots @	/Shot			
524 Telephone	Calls @	/Call			
525 Meals	Days @	Men @	/Man-day		
526 Field Supplies					
528 Postage	Mailings @	/Mailing (Standard)			
528 Postage	Mailings @	/Mailing (Overnight)			
530 Misc Reimbursable Exp					
532 Temporary Personnel					
534 Office Supplies					
535 CADD					
536 Field Equip Rental					
537 Interior Design Items					
539 License & Regulation Fee					
543 NM Gross Receipt Tax					
547 Computer Supplies					
<b>Total Reimbrusable Expenses</b>					

# All About Pavements Detailed Fee Proposal



## All-About Pavements Inc.

Southeast Office — 9142 W Highway 98. — Port St Joe, FL 32456  
(850) 647-2740 — [www.allaboutpavements.com](http://www.allaboutpavements.com) — fax (320) 323-4888

May 2, 2022

Mr. Mark D. Haberer, P.E.  
Principal-in-Charge/Project Manager  
Parkhill, Inc.  
4222 85<sup>th</sup> St  
Lubbock, Texas 79423

Re: API Proposal for El Paso International Airport (EPIA), Taxiway  
Golf Reconstruction – Request for Proposal.

Dear Mr. Haberer:

As requested, All About Pavements, Inc. (API) is submitting our pavement engineering services proposal to Parkhill based on the scope of services that was included in your RFP letter from April 25, 2022. Based on the scope of work, we have prepared a detailed fee proposal as shown in Attachment #2. A fee summary by phase is as follows:

<del>1. Nondestructive Deflection Testing and Analysis</del>	<del>\$23,630</del>	Eliminated per EPIA
2. Design Phase (Lump Sum):	\$18,173	
3. Bidding Phase (Time and Materials):	\$ 1,892	
4. Construction Phase (Time and Materials):	\$16,285	
<b>TOTAL</b>	<del>\$59,980</del>	<b>\$36,350</b>

We appreciate the opportunity to support Parkhill during the pavement field investigation, design, bidding support, and the construction phase of Taxiway G reconstruction at EPIA. Should you have any questions, please do not hesitate to call me at 217-390-3584.

Sincerely,  
All About Pavements, Inc.

Wayne J. Seiler, Ph.D., P.E.  
Project Manager

### Attachments

1. Parkhill Requested Scope of Work
2. API Fee Proposal

**Pavement Management — Evaluation — Testing — Design**

# All About Pavements Detailed Fee Proposal (cont.)



April 25, 2022

Dr. Wayne Seiler, PE  
All About Payments, Inc.  
205 Ramblewood Drive  
Chatham Illinois 62629

Re: EPIA Taxiway Golf Reconstruction – Request for Proposal

Dear Dr. Seiler:

The Parkhill team was selected to provide design, bidding, and construction administration and closeout services for the El Paso International Airport (EPIA) Taxiway Golf Reconstruction project. Refer to attached exhibits for definition and Project limits. Project will address reconstruction of asphalt taxiway and asphalt shoulders. Parkhill requests a proposal from All About Pavements, Inc. (API) for civil/pavement engineering support to include:

1. **Non-destructive Deflection Testing and Analysis (fee shall be lump sum and itemized separately)**
  - a. Conduct Nondestructive Deflection Testing (NDT) in accordance with the guidelines in FAA AC150/5370-11B, "Use of Nondestructive Testing in the Evaluation of Airport Pavements" for footprint highlighted on attached Drawing. Denoted area is existing pavement and our scope should assess condition and determine taxiway and shoulder pavement sections for reconstructed area. Further, we should determine potential for reuse of layers/materials.
  - b. Anticipate proceeding with this work on or around week of June 15, 2022.
  - c. Note: LOI Engineers will conduct geotechnical investigation. Please coordinate any special testing requirements you have for them through me. Parkhill will provide API with RFP for LOI so you can assess their scope and help us ensure all needed items are covered.
  - d. For Taxiway G, Parkhill requests API proposal reflect recommended number of passes and frequency of tests. At minimum, API shall make two passes at 10-foot offsets to right and left of centerline, with tests at 50-foot intervals. Second pass shall be staggered 25 feet from first pass to provide better coverage of taxiway.
  - e. Additional localized NDT testing may be conducted where test results indicate pavement structure is weaker than surrounding area.
  - f. Additional NDT tests may be conducted in other areas if needed to better define limits of weak materials and changes in pavement cross section.
  - g. Based on NDT deflection data obtained, API shall assess data, document existing pavement section condition, and use data, in conjunction with provided geotechnical investigation, to determine recommended reconstructed limits and pavement section.
  - h. **Deliverable.** NDT deflection data and location map with GPS coordinates for each test location to include:
    - i. Impulse Stiffness Modulus (ISM) (i.e., strength) of overall pavement structure.
    - ii. ISM of subgrade materials.
    - iii. Modulus of Elasticity (i.e., strength) of AC layers.
    - iv. Modulus of Elasticity of base, subbases, and subgrade layers.
  - i. Proposal shall include all applicable expenses.
2. **Design Phase (fee shall be lump sum)**
  - a. Attend Design Phase kickoff meeting in El Paso on or around 6/15/2022.
  - b. Conduct visual inspection of Project site in conjunction with design kickoff meeting.
  - c. Review pavement record Drawings from Project area provided by Parkhill.
  - d. Review geotechnical engineering data provided by LOI Engineers.



# All About Pavements Detailed Fee Proposal (cont.)

Dr. Wayne Seiler, PhD, PE

Page 2

April 25, 2022

- e. Perform asphalt pavement design using FAARFIELD in accordance with latest FAA AC requirements. Include budget to perform FAARFIELD analysis on up to three alternative pavement sections for the taxiway and up to two alternative pavement sections for shoulders.
- f. API should compile and document design basis as part of our formal Engineering Design Report to submit to EPIA.
- g. Include time for independent QC review of pavement sections and other pavement details prepared by Parkhill.
- h. Attend weekly internal or external design progress meetings virtually (30 minutes each).
- i. Anticipate:
  - i. 60 days for Preliminary Design,
  - ii. 60 days for Pre-Final Design,
  - iii. 15 days for Final Design, and
  - iv. 15 days to prepare final Bid Set.
- j. Attend a virtual review meeting with EPIA at end of each phase.
- k. Include all applicable expenses.

### 3. Bidding Phase (fee shall be on a time and materials basis)

- a. Include limited time for Q&A for Bid Phase questions.
- b. Include two hours for virtual attendance of Prebid Meeting.
- c. Include all anticipated expenses.

### 4. Construction Phase (fee shall be on a time and materials basis)


- a. Attend Preconstruction Meeting virtually.
- b. Include one site visit (two days total) to troubleshoot airfield pavement issues/concerns and observe pavement quality.
- c. Miscellaneous assistance with occasional RFIs, construction issues, etc. (two hours/week over eight weeks)
- d. Attend six weekly progress meetings virtually (six @ approximately one hour/each).
- e. Review submittals for P-401 and base material.
- f. Attend virtual pavement workshop (Prepave Meeting) held at EPIA.
- g. Include all anticipated expenses.

Please feel free to suggest additional services beyond what we defined if beneficial to EPIA and Project process. For questions, please call me directly at 806.473.3600 or [mhaberer@parkhill.com](mailto:mhaberer@parkhill.com). Please provide receipt of your proposal by 5pm, Friday, April 29, 2022.

Sincerely,

PARKHILL

By



Mark D. Haberer, PE  
Principal-in-Charge/Project Manager

# All About Pavements Detailed Fee Proposal (cont.)

El Paso, TX - Fee 2 May 2022.xlsx

All About Pavements, Inc. 5/7/2022



All About Pavements, Inc. (API)  
Personnel Hour and Fee Estimate For  
El Paso International Airport Taxiway G Reconstruction  
El Paso, Texas  
5/2/2022

TASK	TASK DESCRIPTION	API TASK HOURS BY DISCIPLINE						TOTAL HOURS	API OTHER DIRECT COSTS (ODC)					API TASK TOTAL	COMMENTS	
		PROJECT MANAGER	SR. PROJ. ENGINEER	PROJ. ENGINEER	CAD/GIS OPERATOR	ADMIN	FWD DAYS		PER DIEM	AIRFARE TRIPS	CAR RENTAL DAYS	FWD Equip Mob Ea Way				
Non-Destructive Deflection Testing and Analysis Phase (lump sum)																
1	Defining Requirements and Project Mgmt		2	2				4							\$849	
2	FWD Testing															
2.1	Mobilization															
2.2	Testing		12	8				12							\$9,397	
3	Geotech Coring Recommendations							8							\$4,650	Mob from Austin, Texas on June 14th
4	Data Analysis	1	6	8				1		2	1	2	2		\$2,361	Aprox. 3,500 ft of NDI plus extra tests
5	Contract O&M	2	4					6							\$3,334	Testing Interval is 30 ft with 25 ft Slagger
6	Analysis Report	4	8					12							\$1,226	
Design Phase (lump sum)																
7	Kick-off and Site Visit		16					16							\$4,921	
8	Records Review		4	8				12							\$2,452	Historical and geotech, etc.
9	Pavement Design		4	8				12							\$2,452	FAARFIELD 2.0
10	Weekly Progress Meetings		5	5				10							\$2,123	20 migs @ 30-min(virtual)
11	Review Meetings		4	6				10							\$2,075	QC and EPIA End of Phase (virtual)
12	Pavement Design Report for EDR		8	12				20							\$4,150	Electronic
Bidding Phase (time and materials)																
13	Pavement Eng. Technical Support for RFIs		4					4							\$946	
14	Attendance of Pre-Bid Meeting		4					4							\$946	Virtual
Construction Phase																
15	Pre-construction Meeting		4					4							\$1,575	Virtual
16	On-site visit		16					16							\$4,921	
17	Miscellaneous Assistance		6	10				16							\$3,301	
18	Progress Meetings		2	4				6							\$1,226	
19	Submital Reviews		4	8				12							\$2,452	Virtual
20	Attend Pre-Pavement Meeting at EPIA		8					8							\$2,811	Virtual
TOTAL TASK HOURS AND ODC QUANTITIES																
RATES (Labor Includes Overhead)			102	101	12	12	0	227		1	8	4	7	2	\$59,979	API TOTAL COST
			\$215	\$171	\$143	\$113	\$57		\$3,000	\$144	\$700	\$75	\$3,000			\$36,350
SUBTOTALS			\$21,926	\$17,281	\$1,717	\$1,351	\$0	227	\$3,000	\$1,152	\$2,800	\$525	\$6,000		\$55,751.94	
LABOR PROFIT @ 10%; ODC G&A @ 0%			\$2,193	\$1,728	\$172	\$135	\$0		\$0	\$0	\$0	\$0	\$0		\$4,227.49	
TOTALS			\$24,119	\$19,009	\$1,888	\$1,486	\$0	227	\$3,000	\$1,152	\$2,800	\$525	\$6,000		\$59,979	API TOTAL COST \$36,350

**PERSONNEL HOUR AND FEE ESTIMATE SUMMARY:**

TOTAL API DIRECT LABOR COST \$42,275  
API PROFIT @ 10% \$4,227  
SUBTOTAL \$46,502

TOTAL API DIRECT COSTS \$13,477  
API G&A @ 0% \$0  
SUBTOTAL \$13,477

TOTAL SUBCONSULTANT COSTS \$0  
API Subconsultant G&A @ 0% \$0  
SUBTOTAL \$0

**PROJECT TOTAL COST \$36,350**

Assumptions 25 staggered testing on Taxiway G (2 passes @ 10' R and L C/L)  
1 day FWD

FWD eliminated from scope per EPIA

# Barragan & Associates Detailed Fee Proposal

## Barragan And Associates Inc.

10950 Pellicano Dr., Building "F", El Paso, Texas 79935 Ph. (915) 591-5709 Fax (915) 591-5706

May 2, 2022  
Revised 07-18-2022  
Revised 07-25-2022

Mark D. Harberer, PE  
Parkhill Smith and Cooper  
4222 85<sup>th</sup> Street  
Lubbock, TX 79423  
Tel: 806 473-3600  
mhaberer@team-psc.com

### Re: El Paso International Airport. (Taxiway Golf) – Topographic Survey (Revised Proposal)

Mark D. Harberer,

In response to your request, we are pleased to submit this letter which constitutes our proposal for the desired surveying services for the subject project. The scope of services for this project is described by the following outline and as per your instructions:

#### DELIVERABLES FORMAT / SCOPE (Design Phase on Lump Sum Basis)

1. All coordination shall be with Project Manager, Mark Haberer, P.E.
2. Reference FAA AC 150/5300-18B, latest change.
3. Geodetic Datum: North American Datum 1983 (NAD83). Texas State Plane, Texas Central – 4203 as tied to the Primary Airport Control (PAC) and Secondary Airport Control (SAC).
4. Vertical Datum: North American Vertical Datum 1988 (NAVD88).
5. Show benchmark(s) used for survey.
6. Establish three control points near Project area to reference during construction. Coordinate location of control points with Engineer and Owner prior to performing survey.
7. Topographic survey shall extend within limits identified on attached Drawing.
8. Provide electronic Drawing in AutoCAD compatible with Version 2016 or 2017.
9. Entity color and line type shall be "by-layer."
10. Follow FAA AC 150/5300-18B, latest change, for CAD Standards for layer naming.
11. Provide all contours, breaklines, TIN elements, and existing ground shots on elevation; **We will also create tin surface and provide triangle data.**
12. Extraneous shots for locating features not on ground surface should be on elevation, but on a separate layer from ground surface shots.
13. Line work shall be all on elevation "0," except for surface information such as tins, contours, etc.
14. Points should be blocks with elevation, point number, and descriptor attributes.
15. Provide a comma-delimited ASCII text file of all points obtained in the following format:
  - a. POINT #, NORTHING, EASTING, ELEVATION, DESCRIPTION.
16. Provide an AutoCAD color table file (CTB) for plotting styles.
17. Provide a point codes description list describing abbreviations and symbols used.
18. Provide one PDF file and one print of each Drawing. Surveyor shall sign and seal each Drawing and state, to the best of the Surveyor's knowledge, information and belief, all information thereon is true and accurately shown.
19. Sheet shall be trim size 22 x 34 inches.

# Barragan & Associates Detailed Fee Proposal (cont.)

## Barragan And Associates Inc.

10950 Pellicano Dr., Building "F", El Paso, Texas 79935 Ph. (915) 591-5709 Fax (915) 591-5706

### Topographic Survey (Design Phase on Lump Sum Basis) (includes the following feature criteria as a minimum):

1. Provide grid and additional points sufficient to accurately show existing ground surface and site features. Topo grid to be obtained at 20-foot interval. **Outside row of shots to be at Taxiway free area which is 121.5 ft. offset from centerline.**
2. Use necessary method to obtain high-level precision, maximum .04-foot permissible grade tolerance.
3. Provide contours on finished Drawing at 0.1-foot interval.
4. Show spot elevations to nearest 0.01 foot.
5. Locate drainage swales, ridges, flow lines, and specific drainage features.
6. Locate curb PCs, PTs, midpoints, and enough spots to define curves.
7. Locate building corners and finished floor elevations, for hangars in Project area.
8. Locate sidewalk and miscellaneous concrete footprints.
9. Locate aboveground tanks and other miscellaneous structures including traffic and street signs, utility markers, poles, guys, towers, bridges, ground transformers, or any object encountered on the property.
10. Locate trees and other landscape features.
11. Note location and ground elevation for test holes, if completed and identifiable.
12. Locate fences and walls with respect to property lines and designate height.

### Utility Survey (Design Phase on Lump Sum Basis)

We will coordinate with DIGTESS (One Call), City of El Paso, El Paso International Airport, FAA, and various utility providers as necessary to mark buried utilities. Parkhill will have a man onsite to assist. Provide operating authority information (contact person, email, phone).

**Please note that we will only provide easement that are visible and marked in the field. We can also relate existing plans if they are provided.** Such utility information shall be shown on completed survey along with the following minimum utility criteria:

1. Locate Municipal Utilities: Water, sewer, storm sewer, fire-protection lines, post-indicator valves, culverts, inlets, fire hydrants, meter and valve boxes, cleanouts, manholes, and catch basins. **(Based on field data or existing plans)**
2. Locate Municipal Franchisee Utilities: Electric, natural gas, phone, cable, street lighting, other communications systems including meters, meter and valve boxes, poles, and guy wires. **(Based on field data or existing plans)**
3. Locate Non-Franchisee Utilities: Overland fiber optic, crude oil, natural gas, raw-water transmission, oil wells, and oil-flow lines. **(Based on field data or existing plans)**
4. Locate Private Utilities: Onsite utilities typically extending from property line to existing building, private storm sewer and culverts, central plant utilities, buried tanks, septic fields, water wells, and irrigation system valve boxes. **(Based on field data or existing plans)**

**AVIATION SURVEY DELIVERABLES (Design Phase on Lump Sum Basis) include the following criteria as a minimum):**

1. Provide locations and color of runway lights (MIRLs, HIRLs).
2. Provide locations of airfield signs.
3. Survey EPIA-owned utilities. **(Based on field data or existing plans)**
4. Survey FAA-owned utilities. **(Based on field data or existing plans)**

### **OTHER DESIGN PHASE SCOPE (Lump Sum Basis)**

We will include one survey crew for two supplemental days if additional survey is needed

# Barragan & Associates Detailed Fee Proposal (cont.)

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## Barragan And Associates Inc.

10950 Pellicano Dr., Building "F", El Paso, Texas 79935 Ph. (915) 591-5709 Fax (915) 591-5706

during design.

### SITE ACCESS

We will badge the employees that need to access the Airport.

### NOTE:

**Barragan and Associates Inc. will try to obtain plan records and locate field utilities; but will not be liable to unknown records, unknown visible utilities or available recorded utilities that aren't provided to us.**

### "Exemptions"

The following is excluded unless otherwise requested; ALTA/ACSM Land Title Survey, Boundary Survey, Title commitment, representation through the Federal, State, City and County agencies, submittal fees, soils testing and investigation, elevation certificate, recording fees, **Boundary Survey, Traffic Control, Construction Staking** and any other item not specifically listed in the above Scope of Services.

**Barragan & Associates, Inc.** Proposes the above scope of work in the amount of **\$43,900.00 no tax.** If this proposal meets with your approval, please indicate acceptance by signing in the space provided below and returning one signed copy to us. We appreciate the opportunity to submit this proposal and hope to work with you on this project. If you have any questions, please call us.

Sincerely

Daniel Barragan  
[barramor@sbcglobal.net](mailto:barramor@sbcglobal.net)

Authorization to Proceed:

Accepted By: \_\_\_\_\_

Date: \_\_\_\_\_

# CP Crossno & Associates Detailed Fee Proposal

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**C. P. CROSSNO & ASSOCIATES**  
CONSULTING ENGINEERS

4603 Lake Village Drive  
Fulshear, Texas 77441  
(214) 802-8348

May 2, 2022

Mark D. Haberer, P.E.  
Firm Principal  
Parkhill  
4222 85th Street  
Lubbock, Texas 79423

Re: KELP TXY G Reconstruction

Dear Mr. Haberer:

This letter is to serve as both a fee proposal and agreement between C.P. Crossno & Associates, Consulting Engineers (CPC&A) and Parkhill to provide professional engineering and administrative services associated with the electrical portion of the El Paso International Airport Taxiway 'G' reconstruction project. CPC&A will provide engineering to include the following:

**Design Phase** (fee shall be lump sum)

- a. Attend Design Phase kickoff meeting in El Paso on or around June 15, 2022.
- b. Conduct visual inspection of Project site in conjunction with design kickoff meeting.
- c. Review electrical record Drawings from Project area provided by Parkhill.
- d. Perform design services, including preparation of Plans and Specifications, for airfield lighting and signage improvements within Project footprint and as defined on attached Drawing, specifically including replacement of Taxiway G edge lights and electrical conduit. New guidance and distance signs are also included in the design scope. The existing taxiway incandescent signs will be converted to LED.
- e. Compile and document design basis as part of our formal engineering design report that will be submitted to EPIA.
- f. Allow proposal to reflect Parkhill performing all production work and CPC&A performing all engineering, plan review, and Specification writing.
- g. Attend weekly internal or external design progress meetings virtually (30 minutes each).
- h. Anticipate:
  - i. 60 days for Preliminary Design,
  - ii. 60 days for Pre-Final Design, and
  - iii. 15 days for Final Design.
  - iv. 15 days to prepare final Bid Set.

# CP Crossno & Associates Detailed Fee Proposal (cont.)

- i. Attend a virtual review meeting with EPIA at end of each phase.
- j. Assume no major work related to FAA infrastructure at this time. If necessary, we will address that work by supplemental agreement with EPIA.
- k. Include all applicable expenses.

**Bidding Phase** (fee shall be on a time and materials basis)

- a. Two hours for virtual attendance of Prebid Meeting.
- b. Time for Q&A for Bid Phase questions.
- c. Time for preparation of one addendum.
- d. Time for review of bids/unit process and proposed electrical subcontractor.
- e. Include all anticipated expenses

**Construction Phase** (fee shall be on a time and materials basis)

- a. Attend Preconstruction Meeting virtually.
- b. Include one site visit (two days total) to troubleshoot airfield lighting issues/concerns.
- c. Miscellaneous assistance with occasional RFIs, construction issues, etc. (assume one hour/week over eight weeks)
- d. Attend six weekly progress meetings virtually (assume six @ one hour/each).
- e. Attend the final walkthrough/punch list inspection.
- f. Include all anticipated expenses.

It is understood that changes in our participation will not be made without the approval of both CPC&A and Parkhill. It is also mutually understood that CPC&A will bill for completed engineering in coordination with Parkhill, but that payment will be made only after Parkhill receives payment for the engineering task.

CPC&A will provide certificates and maintain general, professional, and auto liability insurance.

Based on our discussions, it was decided that compensation should be on a 'per hour' basis with a 'Not to Exceed' cost for each phase. Billing will be in accordance the attached Engineering Rate Sheet.

If this is satisfactory, please sign and return one copy to me.

Project Phases	<u>Not to Exceed</u>
Design	\$ 33,371
Bidding	\$ 1,981
Construction	\$ 17,405
	=====

# CP Crossno & Associates Detailed Fee Proposal (cont.)

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Engineering and Direct Expense Total                      \$ 52,757

-----  
Charles Paul Crossno, P.E.  
May 2, 2022

-----  
Mark D. Haberer, P.E.

Approved:

Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# LOI Engineering Detailed Fee Proposal

## EXHIBIT B Geotechnical Engineering Fee 5/2/2022



**Project:** El Paso International Airport - Taxiway Golf Reconstruction  
**File No.** P22-1-00951

### Task 1: Field Exploration

Description	Quantity	Units	Rate	Fee
Drilling: 9 borings to 10 ft. with SPT	90	ft.	\$24.00	\$2,160.00
Test Pits	6	ea.	\$580.00	\$3,480.00
Backfill using grout and cold patch	45	ft.	\$7.00	\$315.00
Infiltration rate (double ring) ASTM D-3385	1	ea.	\$2,750.00	\$2,750.00
Coring crew (incl. coring unit & generator)	12	hr.	\$105.00	\$1,260.00
Dynamic Cone Penetrometer ASTM D-6951	9	ea.	\$75.00	\$675.00
Drill rig mobilization	2	day	\$425.00	\$850.00
Base course sampling at Borrow Areas	8	hr.	\$75.00	\$600.00
Support vehicle	3	day	\$95.00	\$285.00
Field Engineer/Logger	18	hour	\$90.00	\$1,620.00
CBR ASTM D-4429-04	6	ea.	\$150.00	\$900.00
<b>Task 1 Total Fee:</b>				<b>\$14,895.00</b>

### Task 2: Laboratory Testing

Description	Quantity	Units	Rate	Fee
Moisture Content ASTM D-2216	36	ea.	\$15.00	\$540.00
Sieve Analysis ASTM D-422	36	ea.	\$62.50	\$2,250.00
Atterberg Limits ASTM D-4318	18	ea.	\$62.40	\$1,123.20
Soil moisture-density relationships ASTM D-1557	9	ea.	\$240.00	\$2,160.00
California Bearing Ratio ASTM D-1883	9	ea.	\$365.00	\$3,285.00
Shrinkage ASTM D-427	9	ea.	\$175.00	\$1,575.00
Unit Weight of Soil	9	ea.	\$45.00	\$405.00
Cement Series	2	ea.	\$1,150.00	\$2,300.00
LA Abrasion	2	ea.	\$560.00	\$1,120.00
Lime Stabilization Series ASTM C-977-18	2	ea.	\$1,250.00	\$2,500.00
Staff Engineer-assignment/USCS ASTM D-2487	4	hr.	\$95.00	\$380.00
<b>Task 2 Total Fee:</b>				<b>\$17,638.20</b>

### Task 3: Engineering Design, Meetings and Report Preparation

Description	Quantity	Units	Rate	Fee
Drafting	48	hour	\$72.50	\$3,480.00
Clerical	16	hour	\$57.50	\$920.00
Project Engineer	60	hour	\$125.00	\$7,500.00
Principal Engineer	24	hour	\$195.00	\$4,680.00
Reports	1	ls	\$800.00	\$800.00
<b>Task 3 Total Fee:</b>				<b>\$16,580.00</b>

**TOTAL FEE:** **\$49,113.20**

# Sunland Group Detailed Fee Proposal



3200 Wilcrest Drive 713.468.8484 o  
Suite 400 713.449.9952 c  
Houston, TX 77042 www.sunlandgrp.com

April 29, 2022

Mark Haberer, PE, CM  
Parkhill  
501 West San Antonio  
El Paso, TX 79901

Dear Mr. Haberer:

Sunland Group appreciates the opportunity to submit this proposal to provide Cost Estimating for the **EPIA TW G** project.

## Scope of Services:

- Attend virtual Design Phase kickoff meeting
- Provide probable construction cost and independent quantity takeoff at the following phases:
  - Preliminary Design
  - Pre-Final Design
  - Final Design
  - Bid Set
- Estimate format will follow Master Spec classification
- Perform independent QC review of Plans, Specifications, CMP, and CSPP prior to each milestone submittal and provide written comments to Parkhill. Project scope includes reconstruction of asphalt TWY G and related asphalt shoulders within limits shown in exhibit. Project scope will also include drainage enhancements as well as replacement of taxiway edge lighting and signage.
- Compile and document review so it can be included as part of our formal Engineering Design Report submitted to EPIA, if requested.
- Coordinate with Parkhill on establishing bid items to fully capture Project scope, including determination of units of measurement for each.
- Attend up to six internal design team progress meetings virtually (assume 30 minutes each).

## Exclusions:

- Reproduction of cost estimates
- Value Engineering

## Compensation:

Sunland Group will furnish all tasks detailed in the scope of work for this project for the lump sum of **\$45,582**.

Sincerely,

A handwritten signature in black ink that reads "Keith Usher".

Keith Usher

Sr. VP of PM|CM

**Sunland GROUP**

# Sunland Group Detailed Fee Proposal (cont.)



Date: April 29, 2022

Client: Parkhill

Project: EPIA TW G Reconstruction

Address: 501 West San Antonio  
El Paso, TX 79901

## ESTIMATING SERVICES

Labor	Discipline	Individual	Man-hours	Rate	Total
<b>Preliminary Design</b>					
Supervisory Estimator V (20-25)		SH	32.00	\$ 139.60	\$ 4,467.20
Cost Estimator IV (15-20)		BG	24.00	\$ 140.62	\$ 3,374.88
Cost Estimator IV (15-20)		LW	24.00	\$ 135.37	\$ 3,248.88
Construction Cost Estimator, VP of PMCM		KU	2.00	\$ 184.63	\$ 369.26
<b>SUBTOTAL</b>					<b>\$ 11,460.22</b>
<b>EXPENSES</b>					<b>\$ -</b>
<b>Preliminary Design</b>					<b>\$ 11,460.22</b>

Labor	Discipline	Individual	Man-hours	Rate	Total
<b>Pre-Final Design</b>					
Supervisory Estimator V (20-25)		SH	32.00	\$ 139.60	\$ 4,467.20
Cost Estimator IV (15-20)		BG	24.00	\$ 140.62	\$ 3,374.88
Cost Estimator IV (15-20)		LW	24.00	\$ 135.37	\$ 3,248.88
Construction Cost Estimator, VP of PMCM		KU	2.00	\$ 184.63	\$ 369.26
<b>SUBTOTAL</b>					<b>\$ 11,460.22</b>
<b>EXPENSES</b>					<b>\$ -</b>
<b>Pre-Final Design</b>					<b>\$ 11,460.22</b>

Labor	Discipline	Individual	Man-hours	Rate	Total
<b>Final Design</b>					
Supervisory Estimator V (20-25)		SH	16	139.6	\$ 2,233.60
Cost Estimator IV (15-20)		BG	8	140.62	\$ 1,124.96
Cost Estimator IV (15-20)		LW	8	135.37	\$ 1,082.96
Construction Cost Estimator, VP of PMCM		KU	2	184.63	\$ 369.26
<b>SUBTOTAL</b>					<b>\$ 4,810.78</b>
<b>EXPENSES</b>					<b>\$ -</b>
<b>Final Design</b>					<b>\$ 4,810.78</b>

Labor	Discipline	Individual	Man-hours	Rate	Total
<b>Bid Set</b>					
Supervisory Estimator V (20-25)		SH	24	139.6	\$ 3,350.40
Construction Cost Estimator, VP of PMCM		KU	2	184.63	\$ 369.26
<b>SUBTOTAL</b>					<b>\$ 3,719.66</b>
<b>EXPENSES</b>					<b>\$ -</b>
<b>Bid Set</b>					<b>\$ 3,719.66</b>

Cost Estimating Services

110 16th Street, Suite 502C, Denver Colorado 80202  
713-449-9952 Direct ☐ 866-360-2368 Toll Free

# Sunland Group Detailed Fee Proposal (cont.)



Date: April 29, 2022

Client: Parkhill

Project: EPIA TW G Reconstruction

Address: 501 West San Antonio  
El Paso, TX 79901

## ESTIMATING SERVICES

Labor	Discipline	Individual	Man-hours	Rate	Total
<b>Meetings &amp; QC Reviews</b>					
Supervisory Estimator V (20-25)		SH	6	139.6 \$	837.60
QC Review Plans, Specs, CMP, & CSPP		MC	70	184.63 \$	12,924.10
Construction Cost Estimator, VP of PMCM		KU	2	184.63 \$	369.26
				<b>SUBTOTAL</b>	<b>\$ 14,130.96</b>
				<b>EXPENSES</b>	<b>\$ -</b>
				<b>Meetings &amp; QC Reviews</b>	<b>\$ 14,130.96</b>
				<b>PROJECT TOTAL :</b>	<b>\$ 45,582.00</b>

# NV5 Geospatial Detailed Fee Proposal



April 29, 2022

Mr. Mark Haberer  
Principal-in-Charge/Project Manager  
Parkhill  
501 West San Antonio  
El Paso, Texas 79901

Project: 040809 | Airport Survey – El Paso International Airport (ELP) – Taxiway G As-built

Dear Mr. Haberer,

This summary of work describes our understanding of the scope of work and services required for onsite As Built Ground Survey at the El Paso International Airport (ELP) located in El Paso, TX. The project will be done in compliance with AGIS policies and will consist of survey collection for the Taxiway G Reconstruction project (Figure 1). The Advisory Circulars identified below detail the data collection requirements and accuracies for the project and the verification process by the Federal Aviation Administration (FAA) and the National Geodetic Survey (NGS).

- AC 150/5300-16B “General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey”
- AC 150/5300-18B, Change 1 “General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Airport Survey Data Collection and Geographic Information System (GIS) Standards”

## Summary of Work

For this project, we will mobilize a ground survey crew and will provide Parkhill and the FAA the following anticipated features for the area of reconstruction on Taxiway G:

- Taxiway Element
- Taxiway Shoulder
- Taxiway Profile
- Taxiway Markings
- Taxiway Lights
- Taxiway Signs

NV5 Geospatial will be responsible for preparation and submittal of all FAA ADIP documentation required. We will coordinate with Parkhill before any submittals are uploaded to the FAA Airport Data and Information Portal (ADIP).

# NV5 Geospatial Detailed Fee Proposal (cont.)



## Control Surveying

Horizontal: North American Datum of 1983/2011 (NAD 83(2011)), in the TX State Plane Coordinate System, Central Zone in US feet.

Vertical: North American Vertical Datum of 1988 (NAVD 88)

NV5 Geospatial will complete a geodetic control validation of the existing airport PACS and SACS stations or establish temporary airport control according to the guidelines established in AC 150/5300-16B.

## Production Schedule

We will work with you to finalize a mutually agreeable schedule for the project. We will make a reasonable effort to maintain the agreed-upon schedule. However, should the project be interrupted by technical problems beyond our control, including control deficiencies or map file re-deliveries rescheduling may become necessary.

## Deliverables

NV5 Geospatial will submit all data collected and associated required deliverable in the formats specified in the appropriate advisory circulars to the FAA Office of Airports, Airports GIS Program. All data submissions to the FAA will be through the program's web site at <https://adip.faa.gov/agis/>.

We anticipate the delivery of the following items to Parkhill and the FAA ADIP:

- Taxiway Element
- Taxiway Shoulder
- Taxiway Profile
- Taxiway Markings
- Taxiway Lights
- Taxiway Signs

All digital files will be delivered on external hard drive, email, or FTP.

## Cost and Payment Terms

Compensation for the above services will be provided as a time and materials, not to exceed cost of U.S. \$25,360.00

## Client Responsibilities

The successful and timely completion of this project is dependent upon a number of elements and work tasks, some of which involve participation by Parkhill. You will be responsible for designating a representative for the project who will have the authority to transmit instructions, receive information, and make timely decisions with respect to the services provided by NV5 Geospatial.

## NV5 Geospatial Representative

We are excited to announce that we have rebranded to become NV5 Geospatial powered by Quantum Spatial. This is a natural progression for our brand as we continue to integrate our solutions into the NV5 family. Quantum Spatial, Inc dba NV5 Geospatial is a wholly-owned subsidiary of NV5 Global, Inc.

Jill Mahoney, Project Manager and Marlin Zook, Technical Manager, will represent us during the performance of the services to be provided under this agreement. Each has the authority to transmit and

# NV5 Geospatial Detailed Fee Proposal (cont.)

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receive instructions and make decisions with respect to the services. Each is authorized to commit the necessary resources towards completing the services described herein.

We look forward to working with you and your staff to complete this project in a timely and cost effective manner. Should you have any questions, please call our office at (803) 351-3136 or email me at the address shown below.

Sincerely,  
NV5 Geospatial,

A handwritten signature in black ink, appearing to read 'D. Grigg', with a stylized flourish at the end.

David Grigg  
Aviation Program Director  
[David.Grigg@NV5.com](mailto:David.Grigg@NV5.com)



# NV5 Geospatial Detailed Fee Proposal (cont.)



Figure 1. Project Limits





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# HOURLY RATE SCHEDULE

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# Parkhill Hourly Rate Schedule

## Parkhill Hourly Rate Schedule January 1, 2022 through December 31, 2022

Client: City of El PasoProject: Taxiway Golf Reconstruction

Agreement Date: \_\_\_\_\_

Location: El Paso, Texas

CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE
SUPPORT STAFF I	\$58.00	PROFESSIONAL LEVEL III		PROFESSIONAL LEVEL VI	
SUPPORT STAFF II	\$68.00	Architect	\$144.00	Architect	\$239.00
SUPPORT STAFF III	\$94.00	Civil Engineer	\$170.00	Civil Engineer	\$257.00
SUPPORT STAFF IV	\$100.00	Electrical Engineer	\$165.00	Electrical Engineer	\$268.00
SUPPORT STAFF V	\$111.00	Interior Designer	\$129.00	Interior Designer	\$206.00
SUPPORT STAFF VI	\$120.00	Landscape Architect	\$140.00	Landscape Architect	\$222.00
PROFESSIONAL LEVEL I		Mechanical Engineer	\$165.00	Mechanical Engineer	\$268.00
Architect	\$118.00	Structural Engineer	\$163.00	Structural Engineer	\$246.00
Civil Engineer	\$122.00	Surveyor III	\$115.00	Professional Surveyor VI	\$188.00
Electrical Engineer	\$125.00	Other Professional	\$127.00	Other Professional	\$202.00
Interior Designer	\$112.00	PROFESSIONAL LEVEL IV		PROFESSIONAL LEVEL VII	
Landscape Architect	\$112.00	Architect	\$177.00	Architect	\$307.00
Mechanical Engineer	\$122.00	Civil Engineer	\$198.00	Civil Engineer	\$307.00
Structural Engineer	\$117.00	Electrical Engineer	\$194.00	Electrical Engineer	\$307.00
Surveyor I	\$89.00	Interior Designer	\$141.00	Interior Designer	\$231.00
Other Professional	\$110.00	Landscape Architect	\$151.00	Landscape Architect	\$307.00
PROFESSIONAL LEVEL II		Mechanical Engineer	\$194.00	Mechanical Engineer	\$307.00
Architect	\$127.00	Structural Engineer	\$189.00	Structural Engineer	\$307.00
Civil Engineer	\$137.00	Surveyor IV	\$133.00	Professional Surveyor VII	\$208.00
Electrical Engineer	\$141.00	Other Professional	\$150.00	Other Professional	\$307.00
Interior Designer	\$118.00	PROFESSIONAL LEVEL V			
Landscape Architect	\$118.00	Architect	\$215.00		
Mechanical Engineer	\$141.00	Civil Engineer	\$239.00		
Structural Engineer	\$133.00	Electrical Engineer	\$237.00		
Surveyor II	\$99.00	Interior Designer	\$170.00		
Other Professional	\$116.00	Landscape Architect	\$184.00		
		Mechanical Engineer	\$237.00		
		Structural Engineer	\$228.00		
		Professional Surveyor V	\$156.00		
		Other Professional	\$167.00		

**Expenses:** Reimbursement for expenses as listed, but not limited to, incurred in connection with services, will be at cost plus 15 percent for items such as:

1. Maps, photographs, postage, phone, reproductions, printing, equipment rental, and special supplies related to the services.
2. Consultants, soils engineers, surveyors, contractors, and other outside services.
3. Rented vehicles, local public transportation and taxis, road toll fees, travel, and subsistence.
4. Special or job-specific fees, insurance, permits, and licenses applicable to work services.
5. Mileage at IRS-approved rate.

Rate for professional staff for legal proceedings or as expert witnesses will be a rate one-and-a-half times these Hourly Rates. Excise and gross receipt taxes, if any, will be added as an expense.

Foregoing Schedule of Charges is incorporated into the Agreement for Services provided, effective January 1, 2022 through December 31, 2022. After December 31, 2022, invoices will reflect the Schedule of Charges currently in effect.

# All About Pavements Hourly Rate Schedule

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## All About Pavements, Inc. 2022 HOURLY BILL RATES

CATEGORY	HRLY BILL RATE
PRINCIPAL ENGINEER API	\$237.00
SR PROJECT ENGINEER I	\$188.00
SR PROJECT ENGINEER II	\$165.00
PROJECT ENGINEER	\$157.00
AUTOCAD OPERATOR	\$140.00
SR. TECHNICIAN	\$124.00
TECHNICIAN	\$63.00
ADMINISTRATIVE ASSISTANT	\$63.00
NDT EQUIPMENT PER DAY	\$2,750

Note: All travel and other direct costs to be reimbursed at cost with no markup.

# CP Crossno & Associates Hourly Rate Schedule

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**C. P. CROSSNO & ASSOCIATES**  
CONSULTING ENGINEERS

4603 Lake Village Drive  
Fulshear, Texas 77441  
(214) 802-8348

## 2022 RATE SCHEDULE

ILS Engineer	\$ 250.00/hour
Electronics Engineer	\$ 225.00/hour
Electrical Engineer	\$ 225.00/hour
CADD Design Technician	\$ 125.00/hour
CADD Technician	\$ 110.00/hour
Administrative Assistant	\$ 90.00/hour

### EXPENSES

Auto Mileage	\$ 0.59/mile
Aircraft	Direct Cost
Reimbursable Expenses	Direct Cost

**ATTACHMENT “C”**  
**CONSULTANT’S BASIC AND ADDITIONAL SERVICES**

For the **“EPIA-Taxiway Golf Reconstruction”** hereinafter referred to as the Project, the Consultant will provide the Basic and Additional Services as noted herein.

**BASIC SERVICES OF THE CONSULTANT**

**GENERAL**

1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
2. The Consultant shall comply with the City of El Paso Engineering Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under this Agreement.
3. The Consultant shall serve as the Owner’s professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with oversight and management of the Project within the allocated budget. The Owner’s review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

**REPORT/CONCEPT PHASE**

1. Upon receipt of the Owner’s written authorization to proceed with the **Report Phase**, the Consultant shall:
  - a. Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.
  - b. Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.
  - c. (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's representative in connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.



include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

3. Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.
4. Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.
5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.
6. Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.
8. Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.
9. As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

## **PHASE II - PRE-FINAL DESIGN PHASE**

The Consultant shall do the following separately:

1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities. The Consultant shall be fully responsible for coordination with all utility companies to

resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.

2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the **“Drawings,”** to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called **“Specifications.”** These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.
3. Advise the Owner of any adjustment to the Consultant’s previous opinion of probable construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant’s cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor’s method of pricing and that the Consultant’s opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.
4. Prepare proposal forms.
5. As per Attachment “D”, furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.



### **PHASE III - FINAL DESIGN PHASE**

The Consultant shall do the following:

1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.
2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility company comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.
3. Submit to the Texas Department of Licensing and Regulation, or a State Certified ADA consultant, a set of Final Design Drawings for ADA review and approval.
4. As per Attachment "D", furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.
5. As per Attachment "D", furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.
6. Additional copies of the drawings and specifications beyond those identified in Attachment "D", required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

### **BIDDING PHASE**

Upon receipt of Owner's written request, the Consultant shall provide any of the following services during the Bidding Phase:

1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.
2. Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.
3. Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.
4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.

5. As identified in Attachment “A”, assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.
6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

### **CONSTRUCTION PHASE**

At Owner’s request, the Consultant shall provide any of the following services associated with the Construction Phase:

1. Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.
2. Advise and consult with the Owner and act as the Owner’s representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner’s standard general conditions for construction projects, with such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.
3. Unless otherwise stipulated in Attachment “A”, Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.
4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant’s efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor’s failure to perform the construction work in accordance with the construction contract documents.

Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. **Such review must be complete within ten City working days following receipt of submittal documents.** The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.
6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract documents, subject to the Owner's interpretation of such terms and conditions. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.
7. Based on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.
8. Conduct with the Owner and construction contractor no more **than two brief preliminary inspections**, at times requested by the construction contractor to determine if the Project is ready for final inspection.
9. Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the

- construction contractor, a final inspection of the Project and prepare and publish a “punch list” of minor deficiencies to be corrected prior to final payment to the construction contractor. The “**punch list**” shall be furnished to the construction contractor and the Owner within **two City working days** after the final inspection.
10. Issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.
  11. Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.
  12. Furnish the Owner one set of reproducible (**D format**) “record” drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format.
  13. Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.
  14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner’s request, have recommendations implemented by the construction contractor.
  15. Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
  16. Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.
  17. Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.
  18. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.
  19. Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein.
  20. Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.

21. Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.
22. Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.
23. Provide additional or extended services during construction made necessary by: **a)** work damaged by fire or other cause during construction; **b)** prolongation of the construction contract time by more than **twenty-five percent** provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; **c)** Acceleration of the work schedule involving services beyond normal city working hours; or **d)** the construction contractor's default under the construction contract due to delinquency or insolvency.
24. Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.
25. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.

### **ADDITIONAL SERVICES OF THE CONSULTANT**

#### **GENERAL**

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by **ten percent** or more.
3. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.

4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

#### **RESIDENT PROJECT SERVICES**

1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.
2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.
3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

## **ATTACHMENT “D” PAYMENT SCHEDULE**

For the project known as **“EPIA-TAXIWAY GOLF RECONSTRUCTION”**, hereinafter referred to as the Project, the Owner will compensate the Consultant an amount not to exceed **\$876,370.00** for all Basic Services and reimbursables noted within the Agreement and its attachments.

### **PAYMENT SCHEDULE**

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

#### **Payment to Consultant**

**The compensation for each task described in Attachment “A”. Payment shall be made on a monthly basis. 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.**

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant’s proposal found in **Attachment “B”**. The time shown in **Attachment “B”** is an estimate. Should the services rendered during the construction phase exceed the estimated amount, written authorization will be required prior to rendering service. Written authorization shall be only by contract amendment in accordance with the contract provisions and applicable law.

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 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year. The Consultant’s invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> 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).

## **DELIVERABLE SCHEDULE**

### **CONCEPT PHASE**

The services called for in the Report Phase of this Agreement shall be completed concurrently with the preliminary design phase and **five (5) copies** of the Preliminary Study and Report shall be submitted within **30 consecutive calendar days** following the written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed.

### **PHASE I—PRELIMINARY DESIGN PHASE**

The services called for in **Phase I** of this Agreement shall be completed and **ten (10) copies** of any required documents and opinion of probable construction costs shall be submitted within **120 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed. If Owner does not approve the preliminary design documents, the Consultant shall furnish **five (5) copies** of the resubmitted design documents.

### **PHASE II—PRE-FINAL DESIGN PHASE**

The services called for in **Phase II** of this Agreement shall be completed and **ten (10) copies** the required documents and services shall be submitted within **90 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed.

### **PHASE III—FINAL DESIGN PHASE**

The services called for in **Phase III** of this Agreement shall be completed and **ten (10) copies** of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes shall be submitted within **60 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. After review, the Consultant shall submit to Owner **Three (3) copies** of the final revised design documents and specifications for final check. Upon the approval of the final design documents, the Consultant shall furnish **ten (10) copies** of the final design documents and specifications for bidding to the Owner within **60 consecutive calendar days** following written authorization from the Owner for the Consultant to



proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### **PHASE IV—BIDDING PHASE**

Provide services as authorized by Owner during the bid phase as described in Attachment “C” and submit **one (1) copy** of all addenda to the Owner for appropriate action within **four (4) months**.

#### **PHASE V - CONSTRUCTION PHASE**

Provide services as authorized by Owner during construction phase as described in Attachment “C” and submit one set of Mylar and one set of electronic media format copies of all record drawings to the Owner within **eighteen (18) months** from the date of substantial completion.

**ATTACHMENT “E”  
INSURANCE CERTIFICATE**

# Parkhill Certificates of Insurance



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/19/2022

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 Risk Strategies 12801 North Central Expy. Suite 1725 Dallas, TX 75243	CONTACT NAME: Joe Bryant	
	PHONE (A/C, No, Ext): (214) 323-4602	FAX (A/C, No): (214) 503-8899
	E-MAIL ADDRESS: certificatedallas@risk-strategies.com	
INSURED Parkhill 4222 85th St. Lubbock TX 79423	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Travelers Casualty and Surety Co of Amer	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

## COVERAGES

CERTIFICATE NUMBER: 67760386

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 SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / <input type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below					PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability	✓	106653747	1/10/2022	1/10/2023	Per Claim \$2,000,000 Annual Aggregate \$4,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible. Thirty day notice of cancellation in favor of the certificate holder on all policies.  
 Project: PP01AVIA01.3130 – EPIA Taxiway Golf Reconstruction, EPIA Solicitation #2022-0521

## CERTIFICATE HOLDER

## CANCELLATION

CITY OF EL PASO, TEXAS 218 North Campbell 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  Joe Bryant

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ACORD 25 (2016/03)

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67760386 | 22/23 PL \$2M/\$4M default | Beth Richardson | 4/19/2022 2:26:22 PM (EDT) | Page 1 of 1

# Parkhill Certificates of Insurance (cont.)



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
04/19/2022

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).

<b>PRODUCER</b> Sanford & Tatum Insurance Agency PO Box 64790  Lubbock TX 79464		<b>CONTACT NAME:</b> Dee Bartlett <b>PHONE (A/C, No, Ext):</b> (806) 792-5564 <b>FAX (A/C, No):</b> (806) 792-9344 <b>E-MAIL ADDRESS:</b> dee.bartlett@sanfordtatum.com	
		<b>INSURER(S) AFFORDING COVERAGE</b>	
		<b>INSURER A:</b> Charter Oak Fire Ins. Co	
		<b>INSURER B:</b> Travelers Property Casualty Co. of America	
		<b>INSURER C:</b> Travelers Casualty Ins Co of America	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

### COVERAGES

CERTIFICATE NUMBER: 21/22

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"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			6305H948872	09/30/2021	09/30/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY			BA4N167444	09/30/2021	09/30/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP5H948872	09/30/2021	09/30/2022	EACH OCCURRENCE \$ 6,000,000 AGGREGATE \$ 6,000,000 \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	UB5H948872	09/30/2021	09/30/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

PP01AVIA01.3130 - EPIA Taxiway Golf Reconstruction  
EPIA Solicitation #2022-0521

The General Liability & Auto Policies include a Blanket Automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder only when there is a written contract between the Named Insured and the Certificate Holder that requires such status. The General Liability, Auto & Workers' Comp policies include a Blanket Waiver of Subrogation endorsement that provides this feature only when there is a written contract between the

### CERTIFICATE HOLDER

City of El Paso, Texas 218 North Campbell  El Paso TX 79901
--

### CANCELLATION

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 

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# Parkhill Certificates of Insurance (cont.)

AGENCY CUSTOMER ID: 00016178

LOC #: \_\_\_\_\_



## ADDITIONAL REMARKS SCHEDULE

Page \_\_\_\_ of \_\_\_\_

AGENCY Sanford & Tatum Insurance Agency		NAMED INSURED Parkhill, Smith & Cooper, Inc.	
POLICY NUMBER			
CARRIER	NAIC CODE	EFFECTIVE DATE:	

### ADDITIONAL REMARKS


THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

named insured and the certificate holder that requires it. The General Liability, Auto & Workers' Comp. policies include a Blanket Notice of Cancellation endorsement, providing for 30 Days Advance Notice if the policy is canceled by the company other than for nonpayment of premium, 10 day's notice after the policy is canceled for nonpayment of premium. Notice is sent to Certificate Holders with mailing addresses on file with the agent or the company. The endorsement does not provide for notice of cancellation if the Named Insured requests cancellation.

# Parkhill Certificates of Insurance (cont.)

AGENCY CUSTOMER ID: \_\_\_\_\_  
LOC #: \_\_\_\_\_



ADDITIONAL REMARKS SCHEDULE

Page \_\_\_\_ of \_\_\_\_

AGENCY Sanford & Tatum Insurance Agency		NAMED INSURED Parkhill
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: 25      FORM TITLE: Certificate of Liability Insurance: Remarks

The endorsement does not provide for notice of cancellation if the Named Insured requests cancellation.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

### **BLANKET ADDITIONAL INSURED – WRITTEN CONTRACTS (ARCHITECTS, ENGINEERS AND SURVEYORS)**

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**1. The following is added to SECTION II – WHO IS AN INSURED:**

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is limited as follows:

- c. In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
- d. This insurance does not apply to the rendering of or failure to render any "professional services" or construction management errors or omissions.
- e. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured ap-

plies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

**2. The following is added to Paragraph 4.a. of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The insurance provided to the additional insured is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But this insurance provided to the additional insured still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any "other insurance".

**3. The following is added to SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

**Duties Of An Additional Insured**

As a condition of coverage provided to the additional insured:

- a. The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

# Parkhill Certificates of Insurance (cont.)

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## COMMERCIAL GENERAL LIABILITY

- i. How, when and where the "occurrence" or offense took place;
  - ii. The names and addresses of any injured persons and witnesses; and
  - iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against the additional insured, the additional insured must:
- i. Immediately record the specifics of the claim or "suit" and the date received; and
  - ii. Notify us as soon as practicable.
- The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d. The additional insured must tender the defense and indemnity of any claim or "suit" to

any provider of other insurance which would cover the additional insured for a loss we cover. However, this condition does not affect whether this insurance provided to the additional insured is primary to that other insurance available to the additional insured which covers that person or organization as a named insured.

4. The following is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After the signing and execution of the contract or agreement by you;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.



# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |   |   |
|---|---|
| <p>A. Non-Owned Watercraft – 75 Feet Long Or Less</p> <p>B. Who Is An Insured – Unnamed Subsidiaries</p> <p>C. Who Is An Insured – Retired Partners, Members, Directors And Employees</p> <p>D. Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees</p> <p>E. Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies</p> <p>F. Blanket Additional Insured – Controlling Interest</p> <p>G. Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers</p> | <p>H. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises</p> <p>I. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations</p> <p>J. Incidental Medical Malpractice</p> <p>K. Medical Payments – Increased Limit</p> <p>L. Amendment Of Excess Insurance Condition – Professional Liability</p> <p>M. Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement</p> <p>N. Contractual Liability – Railroads</p> |
|---|---|

#### PROVISIONS

##### A. NON-OWNED WATERCRAFT – 75 FEET LONG OR LESS

1. The following replaces Paragraph (2) of Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:
  - (2) A watercraft you do not own that is:
    - (a) 75 feet long or less; and
    - (b) Not being used to carry any person or property for a charge;
2. The following replaces Paragraph 2.e. of **SECTION II – WHO IS AN INSURED**:
  - e. Any person or organization that, with your express or implied consent, either

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;

##### B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
- b. An organization other than a partnership, joint venture or limited liability company; or
- c. A trust;

as indicated in its name or the documents that govern its structure.

### C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2. of SECTION II – WHO IS AN INSURED:

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

#### (1) "Bodily injury":

- (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
- (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

#### (2) "Personal injury":

- (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

#### (3) "Property damage" to property:

- (a) Owned, occupied or used by; or
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by; you, any of your retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

### D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

### E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES

The following replaces Paragraph 3. of SECTION II – WHO IS AN INSURED:

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only:

- (1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

- (2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

### F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of SECTION II – WHO IS AN INSURED:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

### G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS

The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
  - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

### H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away

openings, sidewalk vaults, elevators, street banners or decorations.

### I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

### J. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph b. of the definition of "occurrence" in the **DEFINITIONS** Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph 2.a.(1) of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,



# Parkhill Certificates of Insurance (cont.)



## COMMERCIAL GENERAL LIABILITY

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

- (b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following replaces the last sentence of Paragraph 5. of **SECTION III – LIMITS OF INSURANCE**:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

### Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of the insured.

5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis,

that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

## K. MEDICAL PAYMENTS – INCREASED LIMIT

The following replaces Paragraph 7. of **SECTION III – LIMITS OF INSURANCE**:

7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

- \$10,000; or
- The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.

## L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY

The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage A or Coverage B.

## M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

If the insured has agreed in a written contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- "Bodily injury" or "property damage" that occurs; or
- "Personal and advertising injury" caused by an offense that is committed;

subsequent to the signing of that contract or agreement.



# Parkhill Certificates of Insurance (cont.)

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## COMMERCIAL GENERAL LIABILITY

### N. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph c. of the definition of "insured contract" in the **DEFINITIONS** Section:
  - c. Any easement or license agreement;
2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

### COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

#### SECTION I – COVERAGES

##### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

###### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

### 2. Exclusions

This insurance does not apply to:

#### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

#### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided that the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "bodily injury" or "property damage", provided that:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

#### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

#### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

#### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

#### f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that



# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

is used to heat, cool or dehumidify the building, or produced by or originating from equipment that is used to heat water for personal use by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) If such "pollutants" are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
  - (i) Any insured; or
  - (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
  - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed

to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are or were at any time performing operations to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
  - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

### g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) 50 feet long or less; and
  - (b) Not being used to carry any person or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify as "mobile equipment" under the definition of "mobile equipment" if such land vehicle were not subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged; or

- (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or

- (6) An aircraft that is:

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

### h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity

### i. War

"Bodily injury" or "property damage" arising out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

### j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

### k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

### l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

### m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and

accidental physical injury to "your product" or "your work" after it has been put to its intended use.

### n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

### o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

### p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

However, this exclusion does not apply to liability for damages because of "bodily injury".

### q. Unsolicited Communication

"Bodily injury" or "property damage" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

### r. Access Or Disclosure Of Confidential Or Personal Information

"Bodily injury" or "property damage" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

### s. Asbestos

(1) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "bodily injury" or "property damage" is caused or contributed to by the hazardous properties of asbestos.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

(2) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "bodily injury" or "property damage" described in Paragraph (1) above.

(3) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, asbestos, asbestos fibers or products containing asbestos; or

(b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

### t. Employment-Related Practices

"Bodily injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the

employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "bodily injury".

Exclusions c. through n. do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

## COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

### 1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

### 2. Exclusions

This insurance does not apply to:

#### a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

This exclusion does not apply to "personal injury" caused by malicious prosecution.

### b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material, if done by or at the direction of the insured with knowledge of its falsity.

### c. Material Published Or Used Prior To Policy Period

(1) "Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material whose first publication took place before the beginning of the policy period; or

(2) "Advertising injury" arising out of infringement of copyright, "title" or "slogan" in your "advertisement" whose first infringement in your "advertisement" was committed before the beginning of the policy period.

### d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

### e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Because of "personal injury" assumed by you in a contract or agreement that is an "insured contract", provided that the "personal injury" is caused by an offense committed subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed by you in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "personal injury", provided that:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed by you in the same "insured contract"; and
  - (b) Such attorneys' fees and litigation expenses are for defense of that party

against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### f. Breach Of Contract

"Advertising injury" arising out of a breach of contract.

### g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

### h. Wrong Description Of Prices

"Advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

### i. Intellectual Property

"Personal and advertising injury" arising out of any actual or alleged infringement or violation of any of the following rights or laws, or any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation:

- (1) Copyright;
- (2) Patent;
- (3) Trade dress;
- (4) Trade name;
- (5) Trademark;
- (6) Trade secret; or
- (7) Other intellectual property rights or laws.

This exclusion does not apply to:

- (1) "Advertising injury" arising out of any actual or alleged infringement or violation of another's copyright, "title" or "slogan" in your "advertisement"; or
- (2) Any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation of another's copyright, "title" or "slogan" in your "advertisement".

### j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" caused by an offense committed by an insured whose business is:

- (1) Advertising, "broadcasting" or publishing;

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

- (2) Designing or determining content of websites for others; or

- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a.(1), (2) and (3) of the definition of "personal injury".

For the purposes of this exclusion:

- (1) Creating and producing correspondence written in the conduct of your business, bulletins, financial or annual reports, or newsletters about your goods, products or services will not be considered the business of publishing; and
- (2) The placing of frames, borders or links, or advertising, for you or others anywhere on the Internet will not, by itself, be considered the business of advertising, "broadcasting" or publishing.

### k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts or owns, or over which the insured exercises control.

### l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

### m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

### n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or

neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

### o. War

"Personal and advertising injury" arising out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

### p. Unsolicited Communication

"Personal and advertising injury" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

### q. Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

### r. Asbestos

- (1) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "personal and advertising injury" is caused or contributed to by the hazardous properties of asbestos.
- (2) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "personal and advertising injury" described in Paragraph (1) above.
- (3) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or



# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

assess the effects of, asbestos, asbestos fibers or products containing asbestos; or

- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

### s. Employment-Related Practices

"Personal injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "personal injury".

## COVERAGE C – MEDICAL PAYMENTS

### 1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or

- (3) Because of your operations; provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

### 2. Exclusions

We will not pay expenses for "bodily injury":

#### a. Any Insured

To any insured, except "volunteer workers".

#### b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

#### c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

#### d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

#### e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

#### f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

#### g. Coverage A Exclusions

Excluded under Coverage A.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

### SUPPLEMENTARY PAYMENTS

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
  - a. All expenses we incur.
  - b. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
  - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
  - e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
  - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.
2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
  - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
  - b. This insurance applies to such liability assumed by the insured;
  - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

- d. The allegations in the "suit" and the information we know about the "occurrence" or offense are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
  - (1) Agrees in writing to:
    - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (c) Notify any other insurer whose coverage is available to the indemnitee; and
    - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (2) Provides us with written authorization to:
    - (a) Obtain records and other information related to the "suit"; and
    - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverages – Coverage A – Bodily Injury And Property Damage Liability or Paragraph 2.e. of Section I – Coverages – Coverage B – Personal And Advertising Injury Liability, such payments will not be deemed to be damages for "bodily injury", "property damage" or "personal injury", and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:



# Parkhill Certificates of Insurance (cont.)

- a. We have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
    - (1) "Bodily injury" or "personal injury":
      - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer

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- workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- (2) "Property damage" to property:
  - (a) Owned, occupied or used by;
  - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;
 

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
- b. Any person (other than your "employee" or "volunteer worker"), or any organization, while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
  - (1) With respect to liability arising out of the maintenance or use of that property; and
  - (2) Until your legal representative has been appointed.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
  - e. Any person or organization that, with your express or implied consent, either uses or is responsible for the use of a watercraft that you do not own that is:
    - (1) 50 feet long or less; and
    - (2) Not being used to carry any person or property for a charge.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
- For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such organization will be deemed to be designated in the Declarations as:
- a. An organization, other than a partnership, joint venture or limited liability company; or
  - b. A trust;
- as indicated in its name or the documents that govern its structure.
4. Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that:
- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and
  - b. Arises out of the ownership, maintenance or use of that part of any premises leased to you.
- The insurance provided to such premises owner, manager or lessor is subject to the following provisions:
- a. The limits of insurance provided to such premises owner, manager or lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
  - b. The insurance provided to such premises owner, manager or lessor does not apply to:
    - (1) Any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
    - (2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.
5. Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" that:
- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and
  - b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use of equipment leased to you by such equipment lessor.
- The insurance provided to such equipment lessor is subject to the following provisions:
- a. The limits of insurance provided to such equipment lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
  - b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after the equipment lease expires.
- No person or organization is an insured with respect to the conduct of any current or past partnership, joint

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

venture or limited liability company that is not shown as a Named Insured in the Declarations. This paragraph does not apply to any such partnership, joint venture or limited liability company that otherwise qualifies as an insured under Section II – Who Is An Insured.

### SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
  - a. Medical expenses under Coverage C;
  - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
  - c. Damages under Coverage B.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and "advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
  - a. Damages under Coverage A; and
  - b. Medical expenses under Coverage C;
 because of all "bodily injury" and "property damage" arising out of any one "occurrence".  
 For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "premises damage" to any one premises. The Damage To Premises Rented To You Limit will be:

- a. The amount shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part; or
  - b. \$300,000 if no amount is shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

#### 1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

#### 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
  - (1) How, when and where the "occurrence" or offense took place;
  - (2) The names and addresses of any injured persons and witnesses; and
  - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
  - (1) Immediately record the specifics of the claim or "suit" and the date received; and
  - (2) Notify us as soon as practicable.
 You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
  - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

- (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
- e. The following provisions apply to Paragraph a. above, but only for purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:
- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, or limited liability company), any of your trustees who is an individual (if you are a trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.
  - (2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:
    - (a) Any individual who is:
      - (i) A partner or member of any partnership or joint venture;
      - (ii) A manager of any limited liability company;
      - (iii) An executive officer or director of any other organization; or
      - (iv) A trustee of any trust;
    - (b) Any employee authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.
  - (3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraph e.(1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.
- However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.

### 3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or the claimant's legal representative.



# Parkhill Certificates of Insurance (cont.)

## 4. Other Insurance

If valid and collectible other insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as described in Paragraphs a. and b. below.

As used anywhere in this Coverage Part, other insurance means insurance, or the funding of losses, that is provided by, through or on behalf of:

- (i) Another insurance company;
- (ii) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit provision of Paragraph 5. of Section III – Limits Of Insurance or the Non cumulation of Personal and Advertising Injury Limit provision of Paragraph 4. of Section III – Limits of Insurance applies because the Amendment – Non Cumulation Of Each Occurrence Limit Of Liability And Non Cumulation Of Personal And Advertising Injury Limit endorsement is included in this policy;
- (iii) Any risk retention group; or
- (iv) Any self-insurance method or program, in which case the insured will be deemed to be the provider of other insurance.

Other insurance does not include umbrella insurance, or excess insurance, that was bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

As used anywhere in this Coverage Part, other insurer means a provider of other insurance. As used in Paragraph c. below, insurer means a provider of insurance.

### a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below, except when Paragraph d. below applies.

### b. Excess Insurance

- (1) This insurance is excess over:
  - (a) Any of the other insurance, whether primary, excess, contingent or on any other basis;
  - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

## COMMERCIAL GENERAL LIABILITY

- (ii) That is insurance for "premises damage";
  - (iii) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to any exclusion in this Coverage Part that applies to aircraft, "autos" or watercraft;
  - (iv) That is insurance available to a premises owner, manager or lessor that qualifies as an insured under Paragraph 4. of Section II – Who Is An Insured, except when Paragraph d. below applies; or
  - (v) That is insurance available to an equipment lessor that qualifies as an insured under Paragraph 5. of Section II – Who Is An Insured, except when Paragraph d. below applies.
- (b) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured, or is any other insured that does not qualify as a named insured, under such other insurance.
- (2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
  - (b) The total of all deductible and self-insured amounts under all that other insurance.
- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

### c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

### d. Primary And Non-Contributory Insurance If Required By Written Contract

If you specifically agree in a written contract or agreement that the insurance afforded to an insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

subsequent to the signing of that contract or agreement by you.

### 5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

### 6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

### 7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

### 8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

### 9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

## SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

2. "Advertising injury":
  - a. Means injury caused by one or more of the following offenses:
    - (1) Oral or written publication, including publication by electronic means, of material in your "advertisement" that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged;
    - (2) Oral or written publication, including publication by electronic means, of material in your "advertisement" that:
      - (a) Appropriates a person's name, voice, photograph or likeness; or
      - (b) Unreasonably places a person in a false light; or
    - (3) Infringement of copyright, "title" or "slogan" in your "advertisement", provided that the claim is made or the "suit" is brought by a person or organization that claims ownership of such copyright, "title" or "slogan".
  - b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.
3. "Auto" means:
  - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".
4. "Bodily injury" means:
  - a. Physical harm, including sickness or disease, sustained by a person; or
  - b. Mental anguish, injury or illness, or emotional distress, resulting at any time from such physical harm, sickness or disease.
5. "Broadcasting" means transmitting any audio or visual material for any purpose:
  - a. By radio or television; or
  - b. In, by or with any other electronic means of communication, such as the Internet, if that material is part of:
    - (1) Radio or television programming being transmitted;
    - (2) Other entertainment, educational, instructional, music or news programming being transmitted; or
    - (3) Advertising transmitted with any of such programming.
6. "Coverage territory" means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
  - c. All other parts of the world if the injury or damage arises out of:
    - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
    - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
    - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph a. above, or in a settlement we agree to.
7. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.



# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

10. "Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.
11. "Hostile fire" means a fire which becomes uncontrollable or breaks out from where it was intended to be.
12. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.
13. "Insured contract" means:
- A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";
  - A sidetrack agreement;
  - Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - An elevator maintenance agreement;
  - That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage" or "personal injury" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. does not include that part of any contract or agreement:
- That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
  - That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
    - Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
    - Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
  - Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection, architectural or engineering activities.
14. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
15. "Loading or unloading" means the handling of property:
- After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
  - While it is in or on an aircraft, watercraft or "auto"; or
  - While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
16. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - Vehicles maintained for use solely on or next to premises you own or rent;
  - Vehicles that travel on crawler treads;



# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
- (1) Power cranes, shovels, loaders, diggers or drills; or
  - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.
- However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
- (1) Equipment designed primarily for:
    - (a) Snow removal;
    - (b) Road maintenance, but not construction or resurfacing; or
    - (c) Street cleaning;
  - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
  - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
- However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged. Such land vehicles are considered "autos".
17. "Occurrence" means:
- a. An accident, including continuous or repeated exposure to substantially the same general harmful conditions; or
  - b. An act or omission committed in providing or failing to provide first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.
18. "Personal and advertising injury" means "personal injury" or "advertising injury".
19. "Personal injury":
- a. Means injury, other than "advertising injury", caused by one or more of the following offenses:
    - (1) False arrest, detention or imprisonment;
    - (2) Malicious prosecution;
    - (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, provided that the wrongful eviction, wrongful entry or invasion of the right of private occupancy is committed by or on behalf of the owner, landlord or lessor of that room, dwelling or premises;
    - (4) Oral or written publication, including publication by electronic means, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged; or
    - (5) Oral or written publication, including publication by electronic means, of material that:
      - (a) Appropriates a person's name, voice, photograph or likeness; or
      - (b) Unreasonably places a person in a false light.
  - b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.
20. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

### 21. "Premises damage" means:

- a. With respect to the first paragraph of the exceptions in Exclusion j. of Section I – Coverage A – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of seven or fewer consecutive days, including the contents of such premises; or
- b. With respect to the exception to Exclusions c. through n. in the last paragraph of Paragraph 2. of Section I – Coverage A – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of more than seven consecutive days, or while temporarily occupied by you with permission of the owner, caused by:
  - (1) Fire;
  - (2) Explosion;
  - (3) Lightning;
  - (4) Smoke resulting from fire, explosion or lightning; or
  - (5) Water.

But "premises damage" under this Paragraph b. does not include "property damage" to any premises caused by:

- (1) Rupture, bursting, or operation of pressure relief devices;
- (2) Rupture or bursting due to expansion or swelling of the contents of any building or structure caused by or resulting from water; or
- (3) Explosion of steam boilers, steam pipes, steam engines or steam turbines.

### 22. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
  - (1) Products that are still in your physical possession; or
  - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
    - (a) When all of the work called for in your contract has been completed.
    - (b) When all of the work to be done at the job site has been completed if your

contract calls for work at more than one job site.

- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

### 23. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use will be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

### 24. "Slogan":

- a. Means a phrase that others use for the purpose of attracting attention in their advertising.
- b. Does not include a phrase used as, or in, the name of:
  - (1) Any person or organization, other than you; or
  - (2) Any business, or any of the premises, goods, products, services or work, of any person or organization, other than you.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL GENERAL LIABILITY

25. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
26. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
27. "Title" means a name of a literary or artistic work.
28. "Unsolicited communication" means any communication, in any form, that the recipient of such communication did not specifically request to receive.
29. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
30. "Your product":
- Means:
    - Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by.
- You;
  - Others trading under your name; or
  - A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- b. Includes:
- Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
  - The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.
31. "Your work":
- Means:
    - Work or operations performed by you or on your behalf; and
    - Materials, parts or equipment furnished in connection with such work or operations.
  - Includes:
    - Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
    - The providing of or failure to provide warnings or instructions.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL AUTO

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

### **BLANKET ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE**

This endorsement modifies insurance provided under the following:  
BUSINESS AUTO COVERAGE FORM

#### **PROVISIONS**

1. The following is added to Paragraph A.1.c., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

This includes any person or organization who you are required under a written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph B.5., **Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Regardless of the provisions of paragraph a. and paragraph d. of this part 5. **Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is the first named insured when the written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

# Parkhill Certificates of Insurance (cont.)

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:  
BUSINESS AUTO COVERAGE FORM

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |   |   |
|---|---|
| <p>A. BROAD FORM NAMED INSURED</p> <p>B. BLANKET ADDITIONAL INSURED</p> <p>C. EMPLOYEE HIRED AUTO</p> <p>D. EMPLOYEES AS INSURED</p> <p>E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS</p> <p>F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS</p> <p>G. WAIVER OF DEDUCTIBLE – GLASS</p> | <p>H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT</p> <p>I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT</p> <p>J. PERSONAL PROPERTY</p> <p>K. AIRBAGS</p> <p>L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS</p> <p>M. BLANKET WAIVER OF SUBROGATION</p> <p>N. UNINTENTIONAL ERRORS OR OMISSIONS</p> |
|---|---|

### PROVISIONS

#### A. BROAD FORM NAMED INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

#### B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph c. in A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

#### C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph b. in B.5., **Other Insurance**, of SECTION IV – BUSINESS AUTO CONDITIONS:

- b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

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# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL AUTO

permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

### D. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

### E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

### F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph B.7., **Policy Period, Coverage Territory**, of SECTION IV – BUSINESS AUTO CONDITIONS:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., **Limits Of Insurance**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., **Limits Of Insurance**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

(c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

# Parkhill Certificates of Insurance (cont.)

## COMMERCIAL AUTO

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

### G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

### H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph A.4.b., **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

### I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

### J. PERSONAL PROPERTY

The following is added to Paragraph A.4., **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

#### Personal Property

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

### K. AIRBAGS

The following is added to Paragraph B.3., **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
  - The airbags are not covered under any warranty; and
  - The airbags were not intentionally inflated.
- We will pay up to a maximum of \$1,000 for any one "loss".

### L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph A.2.a., of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- You (if you are an individual);
- A partner (if you are a partnership);
- A member (if you are a limited liability company);
- An executive officer, director or insurance manager (if you are a corporation or other organization); or
- Any "employee" authorized by you to give notice of the "accident" or "loss".

### M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.5., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

#### 5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

# Parkhill Certificates of Insurance (cont.)

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## COMMERCIAL AUTO

such contract. The waiver applies only to the person or organization designated in such contract.

### **N. UNINTENTIONAL ERRORS OR OMISSIONS**

The following is added to Paragraph B.2., Concealment, Misrepresentation, Or Fraud, of SECTION IV – BUSINESS AUTO CONDITIONS:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.



# Parkhill Certificates of Insurance (cont.)

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**WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY**

**ENDORSEMENT WC 00 03 13 (00) - 001**

**POLICY NUMBER: UB5H948872**

## **WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

### **SCHEDULE**

**DESIGNATED PERSON:**

**DESIGNATED ORGANIZATION:**

**ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED  
BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS  
WAIVER.**

**DATE OF ISSUE: 09-23-21**

**ST ASSIGN:**

**PAGE 1 OF 1**

# Parkhill Certificates of Insurance (cont.)

---

POLICY NUMBER: 630-5H948872

ISSUE DATE: 09-23-21

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED ENTITY – NOTICE OF CANCELLATION PROVIDED BY US**

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

### **SCHEDULE**

**CANCELLATION:**

Number of Days Notice of Cancellation: 30

**PERSON OR  
ORGANIZATION:**

ANY PERSON OR ORGANIZATION TO WHOM  
(CONTINUED ON IL T8 03)

### **ADDRESS:**

THE ADDRESS FOR THAT PERSON OR  
(CONTINUED ON IL T8 03)

LUBBOCK  
TX  
79423

### **PROVISIONS:**

If we cancel this policy for any statutorily permitted reason other than nonpayment of premium, and a number of days is shown for cancellation in the schedule above, we will mail notice of cancellation to the person or organization shown in the schedule

above. We will mail such notice to the address shown in the schedule above at least the number of days shown for cancellation in the schedule above before the effective date of cancellation.

IL T4 05 03 11

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Page 1 of 1

# Parkhill Certificates of Insurance (cont.)

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POLICY NUMBER: 630-5H948872

GENERAL PURPOSE ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED ENTITY - NOTICE OF CANCELLATION PROVIDED BY US  
IL T4 05 03 11

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

CONTINUATION OF FORM IL T4 05, PERSON OR ORGANIZATION:

ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT  
NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME  
AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED  
RECEIVES NOTICE FROM US OF THE CANCELLATION OF THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF  
THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS ENDORSEMENT.

ADDRESS:

THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST  
FROM YOU TO US.

# Parkhill Certificates of Insurance (cont.)

POLICY NUMBER: BA-4N167444

ISSUE DATE: 09-23-21

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED PERSON OR ORGANIZATION – NOTICE OF CANCELLATION PROVIDED BY US**

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

	SCHEDULE	
CANCELLATION:	Number of Days Notice:	30

**PERSON OR****ORGANIZATION: ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:**

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OF THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

**ADDRESS:****THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.****PROVISIONS**

If we cancel this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for Cancellation in the Schedule above, we will mail notice of cancellation to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for Cancellation in such Schedule before the effective date of cancellation.

# Parkhill Certificates of Insurance (cont.)



WORKERS COMPENSATION  
AND  
EMPLOYERS LIABILITY POLICY

ENDORSEMENT WC 99 06 10 ( B)

POLICY NUMBER: UB-5H948872

## AMENDED CANCELLATION CONDITION ENDORSEMENT

The following modifies **PART SIX – CONDITIONS, D. Cancellation, Paragraph 2.**, or any endorsement forming a part of this policy that amends such condition:

If we cancel or do not renew this policy, we will mail or deliver to you written notice stating when such cancellation or nonrenewal is to take effect. Mailing that notice to you at your mailing address shown in Item 1 of the Information Page will be sufficient to prove notice. We will mail or deliver that notice:

- a. At least ten days before the effective date of the cancellation or nonrenewal, if we cancel or do not renew for nonpayment of premium; or
- b. At least the number of days shown in the Schedule before the effective date of the cancellation or nonrenewal, if we cancel or do not renew for any other reason.

Notwithstanding the provisions above, in no event will the number of days advance notice for cancellation or nonrenewal be fewer than the number of days required by applicable law.

### SCHEDULE

NUMBER OF DAYS 60

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective	Policy No.	Endorsement No.
Insured		Premium \$
Insurance Company	Countersigned by _____	

DATE OF ISSUE: 09-23-21 ST ASSIGN:  
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Page 1 of 1



Legislation Text

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File #: 22-1090, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action that the City Manager be authorized to sign the Agreement for Professional Services by and between the City of El Paso and Garver, LLC., an Arkansas professional limited liability company authorized to do business in Texas, for a project known as "EPIAGeneral Aviation Ramp Reconstruction", for an amount not to exceed \$1,913,810.00; that the City Engineer is authorized to approve additional Basic Services and Reimbursable Expenses for an amount not to exceed \$50,000.00; and to approve Additional Services for an amount not to exceed \$50,000.00; if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount not to exceed \$2,013,810.00; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.

Funding source: FAA Grant and Airport Enterprise Funds.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**  
Yvette Hernandez, PE City Engineer, (915) 212-1860

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 1. Create an Environment Conducive to Strong, Sustainable, Economic Development

**SUBGOAL:** 1.4: Grow the core business of air transportation

**SUBJECT:**

Discussion and action that the City Manager be authorized to sign the Agreement for Professional Services by and between the City of El Paso and **Garver, LLC., an Arkansas professional limited liability company authorized to do business in Texas**, for a project known as "**EPIA-General Aviation Ramp Reconstruction**", for an amount not to exceed **\$1,913,810.00**; that the City Engineer is authorized to approve additional Basic Services and Reimbursable Expenses for an amount not to exceed \$50,000.00; and to approve Additional Services for an amount not to exceed \$50,000.00; if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount not to exceed **\$2,013,810.00**; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.: Funding source: FAA Grant and Airport Enterprise Funds.

**BACKGROUND / DISCUSSION:**

The El Paso International Airport is designing pavement improvements that will remove and replace approximately 50 acres of aging asphalt at the General Aviation Ramp. This is a multi-year project that will correct drainage issues and replace aging pavement. All improvements will be in compliance with current FAA design circulars.

**SELECTION SUMMARY:**

Consultant selection was based on qualifications pursuant to the Professional Services Procurement Act, 23 CFR, Part 172, and Subchapter A, Chapter 2254, of the Texas Local Government Code. There were three offerors, all with local offices. The recommendation of staff is to award the contract to the offeror based on best demonstrated understanding of the project and FAA requirements, the experience of the project manager and team, and approach to completing the work.

**CONTRACT VARIANCE:**

N/A

**PROTEST**

N/A

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$1,913,810.00  
Funding Source: FAA Grant and Airport Enterprise  
Account: G62A204002 - 562-62330-580260-3080/3010

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?   X   YES        NO

PRIMARY DEPARTMENT: El Paso International Airport  
SECONDARY DEPARTMENT:

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

**DEPARTMENT HEAD:**

Assistant Director Capital Improvement                     Jerry DeMuro/for                      
Yvette Hernandez, P.E.City Engineer



## RESOLUTION

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

That the City Manager be authorized to sign an Agreement for Professional Services by and between the CITY OF EL PASO and GARVER, LLC., an Arkansas limited liability company, for a project known as "EPIA-General Aviation Ramp Reconstruction" for an amount not to exceed \$1,913,810.00; that the City Engineer is authorized to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and to approve Additional Services for an amount not to exceed \$50,000.00 if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount not to exceed \$2,013,810.00; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2022.

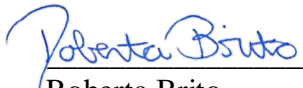
### CITY OF EL PASO:

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


### ATTEST:

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

### APPROVED AS TO FORM:

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

### APPROVED AS TO CONTENT:

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

## CITY OF EL PASO A/E SELECTION SCORESHEET

Rater	SOLICITATION #2022-0522 ARCHITECT & ENGINEERING SVCS. FOR EPIA - GENERAL AVIATION RAMP RECONSTRUCTION		
	GARVER	PARKHILL	RS&H
Rater 1	74	69	67
Rater 2	77	74	55
Rater 3	79	75	54
<b><u>Total rater scores</u></b>	230	218	176
References	10	9	8
<b><u>OVERALL SCORE</u></b>	<b><u>240</u></b>	<b><u>227</u></b>	<b><u>184</u></b>

THE STATE OF TEXAS   )  
  )  
COUNTY OF EL PASO   )

**AN AGREEMENT FOR  
PROFESSIONAL SERVICES**

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2022 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 GARVER, LLC, an Arkansas limited liability company authorized to do business in Texas, hereinafter referred to as the **“Consultant”**.

**WHEREAS**, the Owner intends to engage the Consultant to perform professional services for the project known as “EPIA-General Aviation Ramp Reconstruction”, hereinafter referred to as the **“Project”**, as further described in **Attachment “A”**; 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 Budget
Attachment “B”	Consultant’s Fee Proposal and Hourly Rates
Attachment “C”	Consultant’s Basic and Additional Services
Attachment “D”	Payment and Deliverable Schedules
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 “D”**.

**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 construction of 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 each Project's the construction contract. 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. 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 **\$1,913,810.00** for all basic services and reimbursables performed pursuant to this Agreement.

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of the Project and the increased amounts are within the appropriate budget identified for the identified Project.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding **\$50,000.00** must have prior approval by City Council through written amendment to 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 for such Basic and Additional Services at the rates which is attached hereto as **Attachment "B"**. Payments to the Consultant shall be made pursuant to **Attachment "D"**.

**3.2 CONSULTANT'S SERVICES.** The Basic Services to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C"**.

**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 PROJECT CONSTRUCTION BUDGET AND TIME.** The Consultant acknowledges that the total project budget for the Project allocates is \$1,913,810.00, which is to include all features essential to the operation of the Project for its intended use as described in the Scope of Services and Project budget in **Attachment "A"**. The Consultant does hereby agree to design the Project such that the Consultant's final agreed cost opinions for the construction of the Project, including all features essential to its intended use, is within the above budgeted amount for the base bid. If the Consultant's cost opinions exceed the Project Budget at any time, the Consultant shall make recommendations to the Owner to adjust the Project's size or quality and the Owner shall cooperate with the Consultant to adjust the scope of the Project. If all responsible bids exceed the City approved Consultant's final cost opinions by more than **ten percent (10%)**, the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

**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 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 **Attachments “C” and “D”**.

**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 \$1,000,000.00 on a claim 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 "D"**. 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 OPINION OF PROBABLE COST.** As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within **ten percent (10%)** of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent (10%)**, the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations

**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 "D"** 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 inspection and photo copying of selected documents from time to time at reasonable times (limited to Consultant's office hours) and places upon reasonable notice.

#### **7.6 CONTRACTING INFORMATION**

The Contractor must preserve all contracting information related to this Contract as provided by the records retention schedule requirements applicable to the City for the duration of this Contract. Contractor will promptly provide the City any contracting information related to this Contract that is in the custody or possession of the Contractor on request of the City. On completion of this Contract, Contractor will either provide at no cost to the City all contracting information related to this Contract that is in the custody or possession of the Contractor or preserve the contracting information related to this Contract as provided by the records retention requirements applicable to the City.

**7.7 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

**7.8 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

**7.9 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

**7.10 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.

**7.11 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

**7.12 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner:                      The City of El Paso  
   Attn: City Manager  
   P. O. Box 1890  
   El Paso, Texas 79950-1890

With a Copy to:                      The City of El Paso  
   Attn: City Engineer  
   P. O. Box 1890  
   El Paso, Texas 79950-1890

To the Consultant:                      Garver, LLC.  
   Attn: Colin Bible  
   221 N. Kansas St., Suite 1208  
   El Paso, Texas 79901

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.

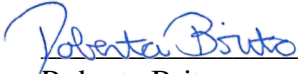
**7.15 TEXAS GOVERNMENT CODE.** In accordance to Chapter 2274 of the Texas Government Code, as amended from time to time, the Consultant represents and warrants to the Owner the following: (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm 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:**

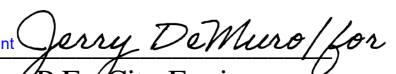
**CITY OF EL PASO:**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

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

**APPROVED AS TO CONTENT:**

Assistant Director Capital Improvement   
\_\_\_\_\_  
Yvette Hernandez, 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 \_\_\_\_\_, 2022,  
by **Tomás González**, as **City Manager** of the **City of El Paso, Texas**.

\_\_\_\_\_  
**Notary Public, State of Texas**

**My commission expires:**

\_\_\_\_\_

*(Signatures begin on following page)*

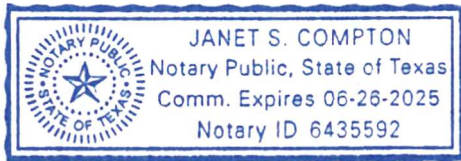
**CONSULTANT:**

By: Colin Bible  
Name: Colin Bible  
Title: Senior Project Manager

**ACKNOWLEDGEMENT**

THE STATE OF Texas §  
§  
COUNTY OF Collin §

This instrument was acknowledged before me on this 11th day of August, 2022,  
by Colin Bible, as Principal, on behalf of Consultant.



Janet Compton  
Notary Public, State of Texas

**My commission expires:**

06/26/2025



**ATTACHMENT “A”  
SCOPE OF SERVICES**

## **ATTACHMENT “A” Scope of Work**

The El Paso International Airport’s objectives are to remove and replace asphalt on the General Aviation Ramp in accordance with FAA design standards.

The target year of construction is 2023. See schematic below for informational purposes only.

### **DESIGN CRITERIA**

GA Ramp Reconstruction consists of full depth demolition of the existing asphalt pavement section and reconstruction of an asphalt pavement section to existing paving limits.

The new asphalt surface will be completed to approximately the existing grades, with verification of Federal Aviation Administration (FAA) surface gradient criteria and possible minor grade corrections.

The project will be designed in accordance with the latest FAA design standards as outlined in FAA Advisory Circular (AC) 150/5300-13A. The pavement will be designed with FAARFIELD per AC 150/5320-6G

### **SERVICES REQUIRED**

#### **Investigation**

All investigations include but are not limited to survey, geotechnical, utility coordination, drainage, FAA infrastructure coordination.

#### **Utility Investigation, Services and Coordination**

The consultant shall coordinate the project design with all utility companies that will be affected by the improvements. The purpose is to minimize utility relocation without compromising design standards. The consultant shall submit all applications to the utilities on behalf of the City, however, the City will pay all utility service fees. It is not the consultant’s responsibility to pull the installation of the service, all activities required as part of the installation of the service will be coordinated and performed by the contractor doing the work.

All utility service requests shall be completed and submitted by the consultant before the construction documents are submitted for bid advertisement. The consultant shall prepare all metes and bounds descriptions for utility easements and/or vacations. The consultant shall coordinate easements and/or vacations with City staff and the respective utility companies. All documents and coordination efforts by the consultant shall be completed by or before the Final Design Phase due date.

As necessary the consultant shall pothole utilities to determine both the vertical and horizontal alignments. This information will allow for a more complete project design and will minimize the potential conflicts during construction.

The consultant shall obtain all available horizontal and vertical information on utility lines, valves, covers, manholes, etc. from the different utility companies during the Preliminary Design Phase, and these existing utility structures shall be shown on the Preliminary Design Phase plan submittal.

As appropriate, the consultant shall correspond and meet with all affected utility companies to discuss the proposed design and to determine if a relocation is needed. If a relocation is required, the extent of the relocation will be determined. If a dispute arises, the consultant shall promptly set up a meeting between the City Project Manager and the utility company to discuss and resolve the issue.

The consultant, on behalf of the City, shall request that all affected utility companies relocate the services that are in conflict with the project improvements. However, each utility company can request that the City include, as part of the bid package, the relocation of their utility lines, provided that the utility company enters into an agreement with the City and provides the funding. The consultant shall coordinate this effort with the utility companies and advise them of the City's policy to minimize pavement cuts on new roadways.

All correspondence and meeting minutes shall be submitted to the City at the completion of each design phase. The construction documents shall show all utility company contacts, and shall clearly show all existing and proposed utility lines. All documents and coordination efforts by the consultant shall be completed by or before the Final Design Phase due date. The consultant shall submit all utility clearance letters from each utility company by or before the project is advertised for bid.

-Existing utility crossings include but are not limited to: gas, FAA communication cables, FAA electrical, and EPIA electrical.

### **Planning**

The designer shall assist the Owner in developing the phasing requirements per the requirements noted above

### **Soils Investigation**

The designer shall provide a subsurface soil investigation study for the project and should be submitted to the Owner for a review. Boring log information can be shown on construction documents with appropriate notes and disclaimers that will minimize change orders. The consultant shall provide pavement design for concrete. Soil investigation shall meet FAA requirements.

### **Surveys**

The designer shall provide all topographic and horizontal surveys for this project and to meet AC-18 requirements. The consultant will follow through with submittal thru the AGIS portal in accordance with AC 15, 17 and 18 requirements.

### **Design Analysis and Project Design**

The consultant shall perform a design analysis for each project to ensure public safety, and all design analysis must comply with the applicable City, County, State, FAA, and other applicable Federal regulations.

Design shall meet all City requirements for the project and shall be performed in phases, in accordance with the Project Schedule Section below.

The consultant shall determine the discipline of the State of Texas licensed designers that are required to perform this type of project design.

Besides complying with local codes, the consultant shall comply, at a minimum, with the City of

El Paso's Design and Construction Standards, the City's Grading Ordinance, the City's Engineering Department Drawing Guidelines, the National Association of City Transportation Official's guidance and the Dark Sky Ordinance as applicable.

The consultant shall ensure that the project design is completed in compliance with all federal, state and local regulations and ordinances.

Early in the design the consultant shall coordinate the selection of materials and equipment with the appropriate City support departments.

## **Bidding**

The consultant shall submit the following for bidding:

- Full and complete sealed set of drawings both in hard copy and electronic format
- Full and complete sealed set of technical specifications both in hard copy and electronic format
- Detailed scope of work both in hard copy and electronic format
- Detailed unit price bid proposal form both in hard copy and electronic format
- Detailed real world value cost estimate in hard copy and electronic format

During the bidding process, the consultant shall assist the Owner with, but not limited to the following items: respond to all questions from perspective bidders, attend a pre-bid conference, and if required prepare addendums. The bids shall be advertised as a unit price contract and selection of the bidders shall be a "low bid" selection. Procurement documents shall follow FAA requirements.

## **Construction**

During the construction, the City may request that the consultant provide construction observation services, to be billed on a time and materials basis. These services may include but are not limited to:

- Attendance at the weekly construction meeting scheduled by the City Project Manager
- Weekly project site visits and development of a project observations report within three (3) business days of the visit
- Respond to Requests for Information (RFIs) from the project contractor
- Review and approve contractor technical submittals within a schedule previously established by the City Project Manager
- Providing advice and recommendations to the Owner
- Participate in punch list inspections and produce punch lists for submittal to Owner
- Produce and provide (24" X 36") "as-built" drawings in an electronic format.

## **Technical Specifications**

The consultant shall prepare and provide technical specifications. The specifications shall be based on FAA requirements. ***Sole sourcing will not be allowed.*** All specifications must include type of materials listed in the construction drawings, placement method and quality control and quality

assurance testing. The specifications shall correlate with unit price format. All specifications must comply with established specification standards and formats. The consultant shall provide both design and performance specifications.

### **Special Permits, and Other Land Use Permits**

The consultant shall submit the required number of plan sets to the City of El Paso Development Department. The consultant shall be responsible for obtaining the required approvals from the City of El Paso Planning and Inspection Department before the construction documents are submitted for bid advertisement. As applicable, it shall be the responsibility of the consultant to follow up on the review and approval process with the City of El Paso Planning and Inspections Department. *The consultant shall not be responsible for pulling the permit.* The pulling of the permit shall be the responsibility of the contractor. It is the responsibility of the City of El Paso Planning and Inspections Department to review the grading and drainage, storm water pollution prevention plan, and electrical permit requirements.

The consultant shall prepare all documents that include, but are not limited to, metes and bounds descriptions, site plans, elevations, layouts, and applications for permits. The consultant shall represent the City to make presentations and answer questions at the Open House Meetings and at City Council meetings, as necessary.

### **Storm Water Pollution Prevention Plan**

The consultant shall prepare and provide a storm water pollution prevention plan. The consultant shall be responsible to be knowledgeable on the storm water pollution prevention plan requirements. The storm water pollution prevention plan shall be submitted to the City of El Paso Planning and Inspections Department for review and approval.

### **Public Involvement**

As necessary the consultant shall assist the City throughout public outreach activities in providing plans/exhibits showing the improvements and how improvements will affect adjacent property owners and in identification of stakeholders. Community meetings will be held for the design phase and the consultant shall be responsible to attend and make a presentation of the improvements and answer questions.

### **Construction Safety/Management plans**

The Consultant shall prepare a Construction Safety and Phasing Plan and a Construction Management Plan in accordance with FAA, Federal, State and City regulations.

### **Environmental Issues**

The project obtained environmental clearance from the FAA

### **Construction Sequencing Plan**

The consultant shall prepare a construction sequencing plan and submit it at all design phase submittals for review. The City will review and approve the sequencing plan. The contractor shall not be given the option of developing the sequence of construction.

### **Construction Schedule**

The consultant shall meet with the City Project Manager and Construction Manager to determine the construction schedule for each phase, order of work, and which phases will be done concurrently. The meeting shall be held after pre-final plans are submitted but before the Final Design Notice to proceed is issued. The information will allow the consultant to prepare a current market cost estimate at the final design phase submittal.



## **EXHIBIT A (SCOPE OF SERVICES)**

Generally, the Scope of Services includes the following professional services for improvements to the General Aviation Apron Reconstruction Program at El Paso International Airport. Improvements will consist primarily of the reconstruction of approximately 50 acres of existing asphalt pavement and corresponding drainage and utility infrastructure as shown in Exhibit A. Work is planned to be completed in three funding packages with an approximate conceptual construction value of approximately \$35M. Preliminary work limits for each funding package are shown in Exhibit B, but will be revised to help maximize federal funding allocations received.

- Surveying Services
- Geotechnical Services
- Design Services
  - 30% Preliminary Design
  - 60% Pre-Final Design
  - 90%/100% Final Design
  - 100% Issued for Bid
- Bidding Services
- Construction Administration Services

### **1. SURVEYING SERVICES**

- 1.1. Design Surveys. Barragan and Associates, as a subconsultant to Garver will provide field survey data from field work for designing the project, and this survey will be tied to the Owner's control network. Survey team members will be escorted by Owner's staff
- 1.2. The surveyor will conduct field surveys, utilizing radial topography methods, at intervals and for distances at and/or along the project site as appropriate for modeling the existing ground, including locations of pertinent features or improvements. Buildings and other structures, airfield pavements, streets, drainage features, airfield lights and signs, fences, visible utilities as well as those underground utilities marked by their owners and/or representatives, and any other pertinent topographic features that may be present at and/or along the project site, will be located. Control points will be established for use during construction. All surveys shall be conducted during normal working hours.
- 1.3. The surveyor will assemble data obtained during the performance of the field surveys in an AutoCAD Civil3D base map drawing to be utilized for design of the project.

### **2. GEOTECHNICAL SERVICES**

- 2.1. Professional Service Industries, Inc (PSI), as a subconsultant to Garver, will be responsible for obtaining, interpreting, and evaluating geotechnical data necessary for the design of this project. The following is a summary of the geotechnical services provided under this Scope of Services.
- 2.2. The geotechnical services will be limited to existing pavement corings and soil borings and analysis of the existing materials. Recommendations for soil treatment will be submitted to Garver for use in development of pavement section alternatives.



### 3. DESIGN SERVICES

3.1. General: Garver will prepare detailed construction drawings, specifications, instructions to bidders, and general provisions and special provisions, all based on guides furnished to Garver by the Owner and FAA, or internally developed by Garver. Contract Documents (Plans, Specifications, and Estimates) will be prepared for award of three (3) construction contracts. These designs shall conform to the standards of practice ordinarily used by members of Garver's profession practicing under similar conditions and shall be submitted to the FAA office/ City of El Paso from which approval must be obtained.

3.2. Owner / Agency Coordination: Garver will serve as the Owner's representative for the project and furnish consultation and advice to the Owner during the performance of this service. Garver will attend conferences alone or with Owner's representatives, tenants, local officials, state and federal agencies, and others regarding the scope of the proposed project, its general design, functions, and impacts. Garver's project manager and/or design team will coordinate with the Owner as necessary to coordinate design decisions, site visits, document procurement, or other design needs.

3.2.1. Modifications to Standard: Garver will develop a modification to standard (MOS) for as needed for the project. Garver will prepare the necessary MOS documentation for submission to the FAA through the Airport Data and Information Portal (ADIP). Documentation will include details of the defined standard, why the standard cannot be met, viable alternatives, and any necessary restrictions associated with the MOS.

#### 3.3. Quality Control

3.3.1. Garver will develop a project specific quality control plan. The quality control plan will include the project background and scope, stakeholder contact information, project team and roles, design criteria, project schedule, and quality control procedures.

3.3.2. Garver will complete a quality control review prior to any design submission to Owner and/or FAA. QC reviews will be completed by a senior construction observer and project manager. Weekly internal progress meetings will be held during all design phases to ensure adequate quality control throughout the design phases.

#### 3.4. Environmental Coordination

3.4.1. Garver will develop a Stormwater Pollution Prevention Plan (SWPPP), including erosion control plans and details. During construction, the SWPPP and NOI shall be submitted to the TCEQ by the contractor for review and permitting.

3.5. Airspace Analysis: Garver will prepare and submit the project to the FAA for permanent airspace clearance on the Obstruction Evaluation and Airport Airspace Analysis (OE/AAA) website and coordinate with FAA representatives.

#### 3.6. Construction Safety and Phasing Plan

3.6.1. Garver will develop a construction safety and phasing plan (CSPP) for the project. During development of the CSPP, Garver will hold a meeting with Airport staff and other stakeholders at the Airport's request to obtain feedback regarding operations during each proposed phase of construction.





3.6.2. After receiving comments from the meeting, Garver will develop a preliminary CSPP for the Owner's review prior to submission to the FAA. After incorporating Owner comments, the CSPP will be submitted to FAA for review through the OE/AAA website.

### 3.7. Existing Conditions Review

3.7.1. Record Document Review: Garver will review record document data from the vicinity of the construction site to evaluate existing conditions. Record document data may include record drawings, record surveys, utility maps, GIS data, and previous design reports.

3.7.2. Site Visits: Garver's civil and electrical engineers will perform up to one (1) site visit to the project site to review existing conditions and evaluate survey and record document data.

3.8. Pavement Design: Garver will develop a fleet mix for the proposed project based on aircraft fleet data from the Owner and Airport Master Plan. Upon completion of the aircraft fleet mix, Garver will submit the fleet to the Owner for review. Upon approval by the Owner, Garver will use FAARFIELD and life cycle cost analysis methods to develop a recommendation for the most economical pavement design. Based on this analysis and discussions with the Owner, a pavement design for the project will be chosen. For concrete pavement design, Garver will design joint patterns and jointing details.

3.9. Geometric Design: Garver will provide geometric design in accordance with FAA AC 150/5300-13 (latest edition) or other local standards.

3.10. Modeling: Garver will develop preliminary vertical alignments based on the requirements of FAA AC 150/5300-13 (latest edition). Upon the completion of vertical alignments, assemblies will be developed based on the pavement design and corridors will be modeled for each taxiway and apron alignment. Modeling will include all surface changes from centerline of corridor to tie into existing grade for the project site. At the completion of individual corridor developments, all corridors will be combined into a final grading surface. Modeling will be an iterative process to determine the most efficient design solution.

3.11. Grading and Drainage: Grading and drainage design shall be completed in accordance with FAA AC 150/5300-13 (Airport Design), FAA AC 150-5320-5 (Airport Drainage Design), and applicable local drainage codes.

3.11.1. Garver will develop hydrologic and hydraulic models of the airfield drainage system within the project limits for the 5 and 100 year storms. Autodesk Storm and Sanitary Analysis will be utilized to complete interconnected pond analysis for all drainage areas. Modeling methodology and parameters will be selected in accordance with standard engineering practice and Owner standards. Modeling parameters, such as areas, slopes, drainage paths, distances, etc. will be obtained from surveys, planimetric contour maps and aerial photos and verified by field investigation.

3.11.2. A pre-development model will be developed to include drainage infrastructure that is known to be functional. Damaged or non-functional drainage infrastructure will not be included in the pre-development model. Garver will also develop a post-development model to manage runoff from the project site. The post-development model may include the expansion of the existing detention areas as well as potential onsite mitigation options.



3.11.3. Garver will develop a brief drainage analysis and this information will be included in the Final Engineer's Report. The drainage analysis report will include the following:

- Pre-development Drainage Methodology and Results
- Conceptual Post-development Drainage Methodology and Results
- Overall Drainage Recommendations

3.12. Utility Design and Coordination: It is expected that the following utilities will require relocation / modification as part of the project. Garver will coordinate with the Owner and applicable utility owners for utility relocation design. In addition to the utilities listed below, Garver will also design infrastructure for future utility extensions.

- Electrical
- Sanitary Sewer

Garver will furnish plans to all known utility owners potentially affected by the project at each stage of development. Garver shall conduct coordination meetings among all known affected utility owners to enable them to coordinate efforts for any necessary utility relocations. Garver will include the surveyed locations of the observable and marked utilities in the construction plans. Garver will also include proposed and/or relocated utility information in the construction plans as provided by the utility companies.

3.13. Specifications and Contract Documents

3.13.1. Technical Specifications: Detailed specifications shall be developed using FAA "Standards for Specifying Construction for Airports" AC 150/5370-10 (latest edition) or other appropriate standards approved for use by the FAA. Additional supplementary specifications will be developed for project requirements not covered by FAA AC150/5370-10 or when state or local standards are approved by the FAA.

3.13.2. Construction Contract Documents: Garver will develop construction contract documents based on the City of El Paso/Owner provided template. A specimen copy of the General Provisions and applicable prevailing wage rates will be obtained by Garver from the FAA and/or Department of Labor as appropriate for incorporation into the specifications for the proposed project. Final construction contract documents will be submitted to the Owner for final review and approval.

3.14. Engineer's Report: Garver will prepare an Engineer's Report to outline the project's design criteria and design considerations. The report will discuss design decisions of all major project parameters. A summary of the sections to be included in the Engineer's Report are shown below:

- Executive Summary
- Project Background
- Existing Conditions
  - Site Survey
  - Geotechnical Investigation
  - Project Photographs
- Applicable AIP Standards
- Construction Safety and Phasing



- Geometric Design
- Pavement Design
- Drainage Design
- Airfield Lighting and Signage
- NAVAIDS
- Pavement Markings
- Environmental Considerations
- Utility Design
- Miscellaneous Design Items
- Modifications to AIP Standards
- DBE Participation
- Project Schedule
- Engineer's Opinion of Probable Cost
- Appendices

3.15. Quantities and Engineer's Opinion of Probable Cost: Garver will develop detailed quantities in PDF format for use in construction cost estimating for each design phase. Quantities will be completed by pay item. Upon the completion of quantity development, Garver will review previous cost data and market conditions and complete an Engineer's Opinion of Probable Cost.

3.16. Design Services Submission and Meeting Summary: The following design submittal phases shall be included in the fee summary. A summary of each design phase and the associated review meetings is included below.

3.16.1. 30% Preliminary Design

3.16.1.1. Garver will develop Preliminary Design plans and engineer's report and submit to the Owner for review. It is anticipated that the Owner will review the design submission within four (4) weeks.

3.16.1.2. At the completion of the Owner review period, Garver will meet with the Owner to review the Preliminary Design and to receive Owner comments and direction.

3.16.2. 60% Pre-Final Design

3.16.2.1. Garver will develop 60% Pre-Final design plans, specifications, and engineer's report and submit these to the Owner for review. It is anticipated that the Owner will review the design submission within four weeks.

3.16.2.2. At the completion of the Owner review period, Garver will meet with the Owner to review the 60% Pre-Final design plans, specifications, and engineer's report and to receive Owner comments and direction.

3.16.3. 90% Final Design

3.16.3.1. Garver will develop 90% final design plans, specifications, and engineer's report and submit these to the Owner for review. It is anticipated that the Owner will review the design submission within four weeks.



3.16.3.2. At the completion of the Owner review period, Garver will meet with the Owner to review the 90% final design plans, specifications, and engineer's report and to receive Owner comments and direction.

3.16.4. 100% Issued for Bid (IFB): Garver will develop 100% IFB plans and specifications and submit these to the Owner for review. It is anticipated that the Owner will review the IFB submission within two weeks.

#### **4. BIDDING SERVICES**

4.1. Bidding. Bidding is anticipated to be completed prior to three (3) construction years (FY2023 through FY 2025). Garver will assist the Owner in advertising for and obtaining bids or negotiating proposals for one prime contract for construction, materials, equipment and services. Garver will attend a pre-bid conference and prepare an agenda to discuss the project with prospective bidders. The Owner will pay advertising costs outside of this contract.

4.2. Garver will issue addenda as appropriate to interpret, clarify or expand the Bidding Documents. Garver will consult with and advise the Owner as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents. Garver will consult with the Owner concerning the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.

4.3. Garver will attend the bid opening, prepare a bid tabulation, and assist the Owner in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment, and services. Garver will assist the Owner in the execution of all contract documents and furnish a sufficient number of executed documents for the Owner, Contractor and FAA.

#### **5. CONSTRUCTION ADMINISTRATION SERVICES**

5.1. Construction is anticipated to be completed over three (3) construction years (FY2023 through FY 2025). During the construction phase of work, Garver will accomplish the tasks below.

##### **5.2. Issued for Construction (IFC) Documents**

5.2.1. Garver will compile bid addendums and any other necessary plan changes due to post-bid project updates and/or funding changes into a final Issued for Construction (IFC) set of plans and specifications.

##### **5.3. Construction Management Plan**

5.3.1. Garver will prepare a "Construction Management Plan" to be submitted to the Federal Aviation Administration (FAA) for approval. At a minimum, the plan shall list key construction personnel, qualifications of construction management personnel, and materials quality assurance information. The plan will be reviewed by the FAA project manager and must be approved along with the final plans and specifications for construction.



#### 5.4. Submittals

5.4.1. Garver will evaluate and respond to construction material submittals and shop drawings. Corrections or comments made by Garver on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. Garver's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, Garver shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

#### 5.5. Preconstruction Meeting

5.5.1. Garver will attend preconstruction meeting. The Construction Management firm (selected under a separate agreement) will provide meeting minutes for submission to all parties at the conclusion of the meeting.

#### 5.6. Progress Meetings

5.6.1. As a minimum, Garver's Project Manager will attend weekly progress meetings with the Owner and Contractor. It is expected that eight (8) meetings will be held on-site, and 26 meetings will be held via conference call. To the extent possible, progress meetings and visits to the site of the work should be scheduled to coincide with each new phase of construction, scheduled FAA inspections, and other times when Garver's presence is desirable.

#### 5.7. RFIs

5.7.1. Garver will issue instructions to the Contractor on behalf of the Owner and issue necessary clarifications (respond to RFIs) regarding the construction contract documents.

#### 5.8. Record Drawings

5.8.1. Garver will maintain a set of working drawings and provide information for preparation of record drawings of the completed project. This information will be incorporated into final record drawings completed as part of Closeout Services (by a firm selected under a separate agreement) and final record drawings will be provided to the Owner after project completion. Garver shall prepare a set of utility record drawings and prepare and furnish record drawings to local utilities as required.

#### 5.9. Change Orders

5.9.1. When authorized by the Owner, Garver will prepare change orders or supplemental agreements for changes in the work from that originally provided for in the construction



contract documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents, the Owner will pay Garver an additional fee to be agreed upon by the Owner and Garver.

5.10. Final Inspection

5.10.1. Garver will participate in a pre-final walkthrough with the Owner. Garver will also participate in a final project inspection with the Owner and Contractor, prepare a punch list, review final project closeout documents, and submit the final pay request.

**6. PROJECT DELIVERABLES**

6.1. The following deliverables will be submitted to the parties identified below. Unless otherwise noted below, all deliverables shall be electronic.

- 30% Preliminary Design to the Owner and FAA.
  - One hard copy to the Owner and FAA.
- 60% Pre-Final Design Plans, Specifications, and Report to the Owner, FAA, and affected Utilities.
- 90% Final Design Plans, Specifications, and Report to the Owner and FAA.
- 100% Issued for Bid Plans, Specifications, and Report to the Owner and FAA.
- Issued for Construction Plans and Specifications to the Owner, Contractor, and FAA.
  - Three hard copies to the Contractor
  - One copy to the FAA
- Construction Management Plan to the Owner and FAA
- Approved submittals to the Contractor.
- Record Plans and Specifications to the Owner and FAA.
  - One hard copy to the Owner.
- Other electronic files as requested.

**7. ADDITIONAL SERVICES**

7.1. The following items are not included under this agreement but will be considered as additional services to be added under Amendment if requested by the Owner.

- Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
- Boundary and property survey and easement development are not included within the surveying services.
- Design related to new or existing hangars or fuel farms. The design scope ends at the face of any existing building.
- Design of fencing.
- Deliverables beyond those listed herein.
- Design of NAVAIDs, PAPIs, and the coordination of FAA Reimbursable Agreements (RAs) are not anticipated for this project.
- Design of any utility relocation not described above.
- Engineering, architectural, or other professional services beyond those listed herein.
- A Safety Risk Assessment (SRA) is not intended for this project.
- Retaining walls or other significant structural design.



- Preparation of a Storm Water Pollution Prevention Plan (SWPPP). The construction contract documents will require the Contractor to prepare, maintain, and submit a SWPPP to TCEQ.
- On-Site Construction Observation, and Construction Materials Testing.
- Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
- Environmental approval (CATEX) has been received for this project.
- Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
- Contractor Payroll review, DBE compliance, progress payments, periodic FAA reporting (including FAA Form 5370-1), and closeout services will be performed by the Construction Management firm that is selected under a separate contract award.
- Services after construction, such as warranty follow-up, operations support, and Part 139 inspection support.

## 8. SCHEDULE

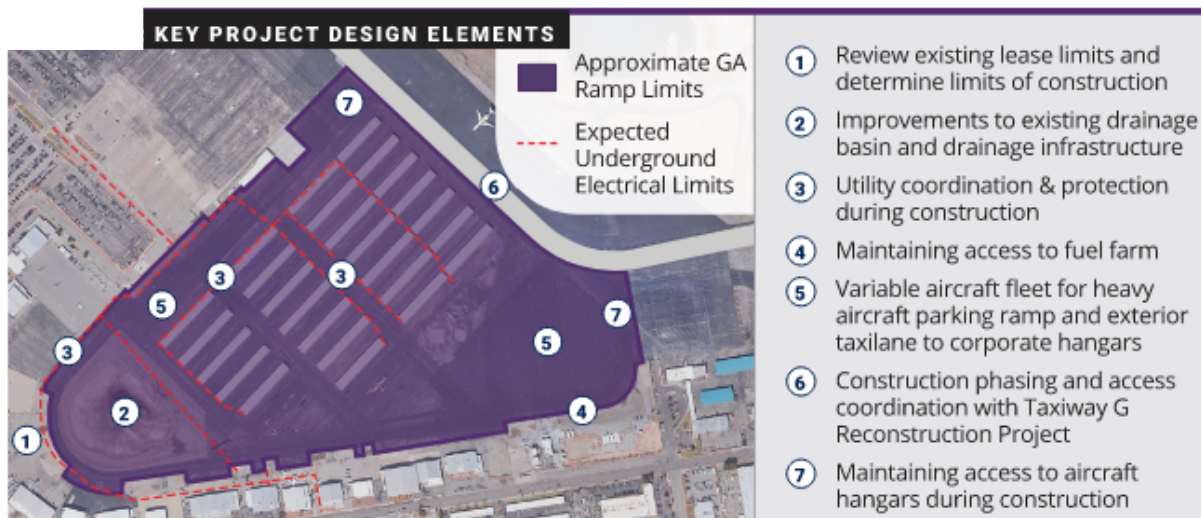
- 8.1. Garver shall begin work under this Agreement within ten (10) days of execution of this Agreement and shall complete the work in accordance with the schedule below:

Design Phase	Calendar Days
Surveying/Geotechnical Services	60 Days from Agreement Execution
30% Preliminary Design	60 Days from Agreement Execution
60% Pre-Final Design	60 Days from Receipt of 30% Preliminary Design Comments
90% Final Design	30 Days from Receipt of 60% Pre-Final Design Comments
100% Issued for Bid	15 Days from Receipt of 90% Final Design Comments





## Exhibit A



## Exhibit B





**ATTACHMENT “B”  
CONSULTANT’S FEE PROPOSAL AND HOURLY RATES**

## EXHIBIT "B"

### El Paso International Airport General Aviation Ramp Reconstruction

#### FEE SUMMARY

<b>Title I Service</b>	<b>Estimated Fees</b>
Surveys (Subconsultant)	\$ 49,350.00
Geotechnical (Subconsultant)	\$ 45,800.00
Preliminary Design	\$ 268,700.00
Pre-Final Design	\$ 339,500.00
Final Design - STAGE I (2023)	\$ 227,600.00
Final Design - STAGE II (2024)	\$ 234,900.00
Final Design - STAGE III (2025)	\$ 241,800.00
Bidding Services - STAGE I (2023)	\$ 9,800.00
Bidding Services - STAGE II (2024)	\$ 10,130.00
Bidding Services - STAGE III (2025)	\$ 10,430.00
<b>Subtotal for Title I Service</b>	<b>\$ 1,438,010.00</b>
<b>Title II Service</b>	<b>Estimated Fees</b>
Construction Administration - STAGE I (2023)	\$ 153,600.00
Construction Administration - STAGE II (2024)	\$ 158,900.00
Construction Administration - STAGE III (2025)	\$ 163,300.00
<b>Subtotal for Title II Service</b>	<b>\$ 475,800.00</b>
<b>Total All Services</b>	<b>\$ 1,913,810.00</b>

## Exhibit B

### El Paso International Airport General Aviation Ramp Reconstruction

#### Preliminary Design

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I	T-2 Technician II
	\$287.00	\$222.00	\$188.00	\$160.00	\$135.00	\$149.00
	hr	hr	hr	hr	hr	hr
<b>1. Project Administration</b>						
Project/Subconsultant Management	2	16				
Owner Coordination	8	16				
Coordination with City Drainage	12	24				
Coordination with Utility Companies	8	20				
Tenant Lease Research/Identifying Vacant Hangars	1	4			8	
Prepare for Tenant Coordination Meetings	4	8			16	
Tenant Coordination	12	16			24	
Internal Weekly Progress Meetings (9 meetings)	9	9	9	9	9	9
Pre-Design Kickoff Meeting Preparation		2			2	
Pre-Design Kickoff Meeting	4	4				
Schedule Updates		8				
Establish Design Criteria and Parameters		2				
Develop Project Quality Control Plan	1	8	4			
Quality Control Audit	2					
Submittals to Owner/FAA		2				
Prepare for Site Visit	1	2			4	
Site Visit (3 people, 1 trip)	8	8			6	
Prepare for Report Review Meeting						
Attend Report Review Meeting (virtual)						
Prepare and Distribute Report Review Meeting Minutes and Tasks						
<b>Subtotal - Project Administration</b>	<b>72</b>	<b>149</b>	<b>13</b>	<b>9</b>	<b>69</b>	<b>9</b>
<b>2. Civil Engineering</b>						
Analyze Survey Data		2		6	24	
Analyze Geotechnical Data	2	2	8			
Utility Coordination and Review	2	8	8	16	24	
Review Existing Environmental Documentation		2				
Base Map File Setup					8	40
Record Document Review		4	8		16	
Field Investigation and Inventory of Existing Infrastructure	4				8	
Conceptual Horizontal Alignments		2		4	8	24
Conceptual Vertical Alignments		2		4	24	40
Drainage Basin Development		4		4	24	16
Pre-Development Flow Calculations	1	4		8	32	16
Post-Development Flow Calculations	1	4		8	48	24
Drainage Pond Calculations and Reporting	1	4		8	16	
Drainage Structural Design Calculations		2	8			
Conceptual Assembly Setup		4		8	24	8
Develop Fleet Mix using available data (TFMSC, 5010, etc.)		4		12		
Conceptual Typical Sections		2			16	40
Conceptual Corridor Model		2		8	24	
Conceptual Construction Safety and Phasing Plan	4	16		16	24	40
Pavement Life Cycle Cost Analysis	2	4				
<b>Preliminary Engineer's Design Report</b>						
Report Graphics						12
Preliminary Pavement Design		4		16		
Preliminary Quantities		4			16	24
Preliminary Opinion of Probable Cost	4	12				

Report Narrative Draft	4	24		24		
Prepare Exhibits for Appendices						
Draft Report QC Review	12	8				
Prepare for and present Preliminary Engineer's Design Report to Airport	4	8		4	4	
Revise and Finalize Report		4		8	16	20
Final Report QC Review	4	12				
FAA Design Checklist		2				
<b>Subtotal - Civil Engineering</b>	<b>45</b>	<b>150</b>	<b>32</b>	<b>154</b>	<b>356</b>	<b>304</b>
<b>3. Utility Engineering</b>						
Records Research and Review			2		12	
Locate Existing Circuits			2		6	
CCR Load Calculations			1		4	
Quantities and Opinion of Probable Cost			2		8	
<b>Preliminary Engineer's Design Report</b>						
Electrical Notes			1		4	
Electrical Removal Plans			2		4	
Electrical Installation Plans			4		8	
Electrical Details			4		8	
Duct Bank Profiles			4		12	
Power Installation Plans			2		12	
Power and Control Diagrams			2		8	
Airport and FAA Coordination			8			
QC Review	4		8			
Draft Report			8		16	
Final Report			4		12	
<b>Subtotal - Utility Engineering</b>	<b>4</b>	<b>0</b>	<b>54</b>	<b>0</b>	<b>114</b>	<b>0</b>

**Hours** **121** **299** **99** **163** **539** **313**

**Salary Costs** \$34,727.00 \$66,378.00 \$18,612.00 \$26,080.00 \$72,765.00 \$46,637.00

**SUBTOTAL - SALARIES:** **\$265,199.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$426.00
Postage/Freight/Courier	\$150.00
Office Supplies/Equipment	\$50.00
Airfare	\$1,750.00
Mileage/Tolls/Parking	\$250.00
Hotels	\$500.00
Meals	\$125.00
Rental Car	\$250.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES:** **\$3,501.00**

**SUBTOTAL:** **\$268,700.00**

**SUBCONSULTANTS FEE:** **\$0.00**

**TOTAL FEE:** **\$268,700.00**

## Exhibit B

### El Paso International Airport General Aviation Ramp Reconstruction

#### Pre-Final Design

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I	T-2 Technician II
	\$287.00	\$222.00	\$188.00	\$160.00	\$135.00	\$149.00
	hr	hr	hr	hr	hr	hr
<b>1. Project Administration</b>						
Project/Subconsultant Management	2	16				
Owner Coordination	16	16				
Coordination with City Drainage	4	16			16	
Coordination with Utility Companies	4	8			8	
Prepare for Tenant Coordination Meetings	2	4			8	
Tenant Coordination	8	8			16	
Internal Weekly Progress Meetings (9 Meetings)	9	9	9	9	9	9
Schedule Updates		8				
CSPP Review Meeting (virtual)	6	12			16	
Prepare for Preliminary Plan Review Meeting	2	4			8	
Attend Preliminary Plan Review Meeting (virtual)	4	4			8	
Prepare and Distribute Preliminary Review Meeting Minutes and Tasks		1			2	
<b>Subtotal - Project Administration</b>	<b>57</b>	<b>106</b>	<b>9</b>	<b>9</b>	<b>91</b>	<b>9</b>
<b>2. Civil Engineering</b>						
Base Map Updates					16	
CSPP Submission to FAA Through OEAAA		2			8	
Update Horizontal Alignments		1		4	12	
Update Vertical Alignments		1		4	12	
Update Assemblies		4			24	
Update Corridor Model		4			24	
Update Fleet Mix using available data (TFMSC, 5010, etc.)		2				
Update Pavement Design		2				
Update Pre-Development Flow Calculations		2		4	12	
Update Post-Development Flow Calculations		4		8	24	
Update Drainage Pond Calculations and Reporting		2		4	8	
FAA Design Checklist		2				
<b>Pre-Final Plans</b>						
Cover Sheet					1	
Sheet Index					1	
General Notes					1	
Project Layout Plan					2	
Survey Control Plan					1	
Construction Safety Plans	1	12		16	40	64
Construction Safety Details		1		2	12	8
Existing Conditions Plans		1		4	24	40
Erosion Control Plans					8	12
Erosion Control Details					2	4
Demolition Plans		2			16	24
Demolition Details		4			8	12
Drainage Plans		8		16	48	80
Drainage Details		2		4	8	16
Utility Plans		2		4	24	32
Utility Details		1		2	4	16

Typical Sections		1		4		16
Paving Plans		8		24	48	80
Paving Details		1		2		8
Grading Plans		4		8	16	32
Grading Details		1		2		8
Pavement Marking Plans	1	4		8	24	32
Pavement Marking Details		1		2		8
Cross Sections		4		8	24	60
Develop Pre-Final Construction Contract Documents	4	12				
Develop Pre-Final Technical Specifications	2	16		24		
Develop Pre-Final Supplemental Specifications	2	12				
Develop Pre-Final Quantities		4		8	24	40
Develop Pre-Final Opinions of Probable Construction Costs	2	8				
Update Engineer's Report		8			16	
Pavement Life Cycle Cost Analysis		2			8	
Internal Quality Control (QC) Review	24	16		8		
Incorporate Pre-Final Owner Review Comments		4		8	24	40
Prepare and Submit Permanent Airspace Study		1			16	
Develop SWPPP		2		8	16	8
<b>Subtotal - Civil Engineering</b>	<b>36</b>	<b>168</b>	<b>0</b>	<b>186</b>	<b>556</b>	<b>640</b>
<b>3. Utility Engineering</b>						
CCR Load Calculations			1		4	
<b>Pre-Final Plans</b>						
Electrical Notes			1		4	
Electrical Removal Plans			2		4	
Electrical Installation Plans			4		8	
Electrical Details			4		8	
Duct Bank Profiles			4		12	
Power Installation Plans			2		12	
Power and Control Diagrams			2		8	
Develop Pre-Final Technical Specifications			4	12		
Develop Pre-Final Supplemental Specifications			4	8		
Develop Pre-Final Quantities			2		16	20
Develop Pre-Final Opinions of Probable Construction Costs		4	4			
Internal Quality Control (QC) Review	4	4				
Incorporate Pre-Final Owner Review Comments		2		8	20	16
<b>Subtotal - Utility Engineering</b>	<b>4</b>	<b>10</b>	<b>34</b>	<b>28</b>	<b>96</b>	<b>36</b>

**Hours** **97** **284** **43** **223** **743** **685**

**Salary Costs** \$27,839.00 \$63,048.00 \$8,084.00 \$35,680.00 \$100,305.00 \$102,065.00

**SUBTOTAL - SALARIES:** **\$337,021.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$534.00
Postage/Freight/Courier	\$170.00
Office Supplies/Equipment	\$50.00
Airfare	\$1,050.00
Mileage/Tolls/Parking	\$150.00
Hotels	\$300.00
Meals	\$75.00
Rental Car	\$150.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES:** **\$2,479.00**

**SUBTOTAL:** **\$339,500.00**

**SUBCONSULTANTS FEE:** **\$0.00**

**TOTAL FEE:** **\$339,500.00**

**Exhibit B****El Paso International Airport  
General Aviation Ramp Reconstruction****Final Design - STAGE I (2023)**

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I	T-2 Technician II
	\$296.00	\$229.00	\$194.00	\$165.00	\$139.00	\$153.00
	hr	hr	hr	hr	hr	hr
<b>1. Project Administration</b>						
Project/Subconsultant Management	2	16				
Owner Coordination	16	16				
Coordination with City Drainage	4	16			16	
Coordination with Utility Companies	4	8			8	
Prepare for Tenant Coordination Meetings	2	4			8	
Tenant Coordination	8	8			16	
Internal Weekly Progress Meetings (6 Meetings)	6	6	6	6	6	6
Schedule Updates		8				
CSPP Review Meeting (virtual)	6	12			18	
Prepare for Preliminary Plan Review Meeting	2	4			8	
Attend Final Plan Review Meeting (virtual)	4	4			8	
Prepare and Distribute Final Review Meeting Minutes and Tasks		1			2	
<b>Subtotal - Project Administration</b>	<b>54</b>	<b>103</b>	<b>6</b>	<b>6</b>	<b>90</b>	<b>6</b>
<b>2. Civil Engineering</b>						
Airspace Submission to FAA Through OEAAA		2			8	
Update Horizontal Alignments				2	4	
Update Vertical Alignments				4	8	
Update Assemblies		2			8	
Update Corridor Model		4			12	
Update Fleet Mix using available data (TFMSC, 5010, etc.)		2				
Update Pavement Design		2				
Update Pre-Development Flow Calculations		2		4	8	
Update Post-Development Flow Calculations		4		8	16	
FAA Design Checklist		2				
Update Purchasing Comments	1	8			16	
<b>Final Plans</b>						
Cover Sheet					1	
Sheet Index					1	
General Notes					1	
Project Layout Plan					2	
Survey Control Plan					1	
Construction Safety Plans	1	12		16	24	32
Construction Safety Details		1		2	4	
Existing Conditions Plans		1		4	4	8
Erosion Control Plans					2	8
Erosion Control Details					1	4
Demolition Plans		2			8	24
Demolition Details		4			4	12
Drainage Plans		4		8	16	24
Drainage Details		1		2	4	8
Utility Plans		1		2	8	16
Utility Details				1	2	8
Typical Sections		1		2		8
Paving Plans		2		4	8	16
Paving Details		1		2		4
Grading Plans		2		4	8	16
Grading Details		1		2		8
Pavement Marking Plans		2		4	8	16
Pavement Marking Details		1		2		8
Cross Sections		4		8	16	24

Develop Final Construction Contract Documents	4	8				
Develop Final Technical Specifications	2	8		16		
Develop Final Supplemental Specifications	2	12				
Develop Final Quantities		4		8	24	16
Develop Final Opinions of Probable Construction Costs	2	8				
Update Engineer's Report		8			16	
Pavement Life Cycle Cost Analysis		2			8	
Internal Quality Control (QC) Review	16	8				
Incorporate Final Owner Review Comments		4		8	24	24
Prepare and Submit Permanent Airspace Study		1			16	
Develop SWPPP		2		8	16	8
<b>Subtotal - Civil Engineering</b>	<b>28</b>	<b>133</b>	<b>0</b>	<b>121</b>	<b>307</b>	<b>292</b>
<b>3. Utility Engineering</b>						
CCR Load Calculations			1		4	
<b>Final Plans</b>						
Electrical Notes			1		4	
Electrical Removal Plans			2		4	
Electrical Installation Plans			2		8	
Electrical Details			2		8	
Duct Bank Profiles			2		8	
Power Installation Plans			2		8	
Power and Control Diagrams			2		8	
Develop Final Technical Specifications			2	8		
Develop Final Supplemental Specifications			4	8		
Develop Final Quantities			2		12	4
Develop Final Opinions of Probable Construction Costs		4	4			
Internal Quality Control (QC) Review	4	4				
Incorporate Final Owner Review Comments		2		8	12	4
<b>Subtotal - Utility Engineering</b>	<b>4</b>	<b>10</b>	<b>26</b>	<b>24</b>	<b>76</b>	<b>8</b>

<b>Hours</b>	<b>86</b>	<b>246</b>	<b>32</b>	<b>151</b>	<b>473</b>	<b>306</b>
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<b>Salary Costs</b>	\$25,456.00	\$56,334.00	\$6,208.00	\$24,915.00	\$65,747.00	\$46,818.00
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**SUBTOTAL - SALARIES: \$225,478.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$247.00
Postage/Freight/Courier	\$100.00
Office Supplies/Equipment	\$50.00
Airfare	\$1,050.00
Mileage/Tolls/Parking	\$150.00
Hotels	\$300.00
Meals	\$75.00
Rental Car	\$150.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$2,122.00**

**SUBTOTAL: \$227,600.00**

**SUBCONSULTANTS FEE: \$0.00**

**TOTAL FEE: \$227,600.00**



**Exhibit B****El Paso International Airport  
General Aviation Ramp Reconstruction****Final Design - STAGE II (2024)**

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I	T-2 Technician II
	\$305.00	\$236.00	\$200.00	\$170.00	\$144.00	\$158.00
	hr	hr	hr	hr	hr	hr
<b>1. Project Administration</b>						
Project/Subconsultant Management	2	16				
Owner Coordination	16	16				
Coordination with City Drainage	4	16			16	
Coordination with Utility Companies	4	8			8	
Prepare for Tenant Coordination Meetings	2	4			8	
Tenant Coordination	8	8			16	
Internal Weekly Progress Meetings (6 Meetings)	6	6	6	6	6	6
Schedule Updates		8				
CSPP Review Meeting (virtual)	6	12			18	
Prepare for Preliminary Plan Review Meeting	2	4			8	
Attend Final Plan Review Meeting (virtual)	4	4			8	
Prepare and Distribute Final Review Meeting Minutes and Tasks		1			2	
<b>Subtotal - Project Administration</b>	<b>54</b>	<b>103</b>	<b>6</b>	<b>6</b>	<b>90</b>	<b>6</b>
<b>2. Civil Engineering</b>						
Airspace Submission to FAA Through OEAAA		2			8	
Update Horizontal Alignments				2	4	
Update Vertical Alignments				4	8	
Update Assemblies		2			8	
Update Corridor Model		4			12	
Update Fleet Mix using available data (TFMSC, 5010, etc.)		2				
Update Pavement Design		2				
Update Pre-Development Flow Calculations		2		4	8	
Update Post-Development Flow Calculations		4		8	16	
FAA Design Checklist		2				
Update Purchasing Comments	1	8			16	
<b>Final Plans</b>						
Cover Sheet					1	
Sheet Index					1	
General Notes					1	
Project Layout Plan					2	
Survey Control Plan					1	
Construction Safety Plans	1	12		16	24	32
Construction Safety Details		1		2	4	
Existing Conditions Plans		1		4	4	8
Erosion Control Plans					2	8
Erosion Control Details					1	4
Demolition Plans		2			8	24
Demolition Details		4			4	12
Drainage Plans		4		8	16	24
Drainage Details		1		2	4	8
Utility Plans		1		2	8	16
Utility Details				1	2	8
Typical Sections		1		2		8
Paving Plans		2		4	8	16
Paving Details		1		2		4
Grading Plans		2		4	8	16
Grading Details		1		2		8
Pavement Marking Plans		2		4	8	16
Pavement Marking Details		1		2		8
Cross Sections		4		8	16	24

Develop Final Construction Contract Documents	4	8				
Develop Final Technical Specifications	2	8		16		
Develop Final Supplemental Specifications	2	12				
Develop Final Quantities		4		8	24	16
Develop Final Opinions of Probable Construction Costs	2	8				
Update Engineer's Report		8			16	
Pavement Life Cycle Cost Analysis		2			8	
Internal Quality Control (QC) Review	16	8				
Incorporate Final Owner Review Comments		4		8	24	24
Prepare and Submit Permanent Airspace Study		1			16	
Develop SWPPP		2		8	16	8
<b>Subtotal - Civil Engineering</b>	<b>28</b>	<b>133</b>	<b>0</b>	<b>121</b>	<b>307</b>	<b>292</b>
<b>3. Utility Engineering</b>						
CCR Load Calculations			1		4	
<b>Final Plans</b>						
Electrical Notes			1		4	
Electrical Removal Plans			2		4	
Electrical Installation Plans			2		8	
Electrical Details			2		8	
Duct Bank Profiles			2		8	
Power Installation Plans			2		8	
Power and Control Diagrams			2		8	
Develop Final Technical Specifications			2	8		
Develop Final Supplemental Specifications			4	8		
Develop Final Quantities			2		12	4
Develop Final Opinions of Probable Construction Costs		4	4			
Internal Quality Control (QC) Review	4	4				
Incorporate Final Owner Review Comments		2		8	12	4
<b>Subtotal - Utility Engineering</b>	<b>4</b>	<b>10</b>	<b>26</b>	<b>24</b>	<b>76</b>	<b>8</b>

<b>Hours</b>	<b>86</b>	<b>246</b>	<b>32</b>	<b>151</b>	<b>473</b>	<b>306</b>
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<b>Salary Costs</b>	\$26,230.00	\$58,056.00	\$6,400.00	\$25,670.00	\$68,112.00	\$48,348.00
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**SUBTOTAL - SALARIES: \$232,816.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$209.00
Postage/Freight/Courier	\$100.00
Office Supplies/Equipment	\$50.00
Airfare	\$1,050.00
Mileage/Tolls/Parking	\$150.00
Hotels	\$300.00
Meals	\$75.00
Rental Car	\$150.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$2,084.00**

**SUBTOTAL: \$234,900.00**

**SUBCONSULTANTS FEE: \$0.00**

**TOTAL FEE: \$234,900.00**

## Exhibit B

### El Paso International Airport General Aviation Ramp Reconstruction

#### Final Design - STAGE III (2025)

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I	T-2 Technician II
	\$314.00	\$243.00	\$206.00	\$175.00	\$148.00	\$163.00
	hr	hr	hr	hr	hr	hr
<b>1. Project Administration</b>						
Project/Subconsultant Management	2	16				
Owner Coordination	16	16				
Coordination with City Drainage	4	16			16	
Coordination with Utility Companies	4	8			8	
Prepare for Tenant Coordination Meetings	2	4			8	
Tenant Coordination	8	8			16	
Internal Weekly Progress Meetings (6 Meetings)	6	6	6	6	6	6
Schedule Updates		8				
CSPP Review Meeting (virtual)	6	12			18	
Prepare for Preliminary Plan Review Meeting	2	4			8	
Attend Final Plan Review Meeting (virtual)	4	4			8	
Prepare and Distribute Final Review Meeting Minutes and Tasks		1			2	
<b>Subtotal - Project Administration</b>	<b>54</b>	<b>103</b>	<b>6</b>	<b>6</b>	<b>90</b>	<b>6</b>
<b>2. Civil Engineering</b>						
Airspace Submission to FAA Through OEAAA		2			8	
Update Horizontal Alignments				2	4	
Update Vertical Alignments				4	8	
Update Assemblies		2			8	
Update Corridor Model		4			12	
Update Fleet Mix using available data (TFMSC, 5010, etc.)		2				
Update Pavement Design		2				
Update Pre-Development Flow Calculations		2		4	8	
Update Post-Development Flow Calculations		4		8	16	
FAA Design Checklist		2				
Update Purchasing Comments	1	8			16	
<b>Final Plans</b>						
Cover Sheet					1	
Sheet Index					1	
General Notes					1	
Project Layout Plan					2	
Survey Control Plan					1	
Construction Safety Plans	1	12		16	24	32
Construction Safety Details		1		2	4	
Existing Conditions Plans		1		4	4	8
Erosion Control Plans					2	8
Erosion Control Details					1	4
Demolition Plans		2			8	24
Demolition Details		4			4	12
Drainage Plans		4		8	16	24
Drainage Details		1		2	4	8
Utility Plans		1		2	8	16
Utility Details				1	2	8
Typical Sections		1		2		8
Paving Plans		2		4	8	16
Paving Details		1		2		4
Grading Plans		2		4	8	16
Grading Details		1		2		8
Pavement Marking Plans		2		4	8	16
Pavement Marking Details		1		2		8
Cross Sections		4		8	16	24

Develop Final Construction Contract Documents	4	8				
Develop Final Technical Specifications	2	8		16		
Develop Final Supplemental Specifications	2	12				
Develop Final Quantities		4		8	24	16
Develop Final Opinions of Probable Construction Costs	2	8				
Update Engineer's Report		8			16	
Pavement Life Cycle Cost Analysis		2			8	
Internal Quality Control (QC) Review	16	8				
Incorporate Final Owner Review Comments		4		8	24	24
Prepare and Submit Permanent Airspace Study		1			16	
Develop SWPPP		2		8	16	8
<b>Subtotal - Civil Engineering</b>	<b>28</b>	<b>133</b>	<b>0</b>	<b>121</b>	<b>307</b>	<b>292</b>
<b>3. Utility Engineering</b>						
CCR Load Calculations			1		4	
<b>Final Plans</b>						
Electrical Notes			1		4	
Electrical Removal Plans			2		4	
Electrical Installation Plans			2		8	
Electrical Details			2		8	
Duct Bank Profiles			2		8	
Power Installation Plans			2		8	
Power and Control Diagrams			2		8	
Develop Final Technical Specifications			2	8		
Develop Final Supplemental Specifications			4	8		
Develop Final Quantities			2		12	4
Develop Final Opinions of Probable Construction Costs		4	4			
Internal Quality Control (QC) Review	4	4				
Incorporate Final Owner Review Comments		2		8	12	4
<b>Subtotal - Utility Engineering</b>	<b>4</b>	<b>10</b>	<b>26</b>	<b>24</b>	<b>76</b>	<b>8</b>

<b>Hours</b>	<b>86</b>	<b>246</b>	<b>32</b>	<b>151</b>	<b>473</b>	<b>306</b>
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<b>Salary Costs</b>	\$27,004.00	\$59,778.00	\$6,592.00	\$26,425.00	\$70,004.00	\$49,878.00
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**SUBTOTAL - SALARIES: \$239,681.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$244.00
Postage/Freight/Courier	\$100.00
Office Supplies/Equipment	\$50.00
Airfare	\$1,050.00
Mileage/Tolls/Parking	\$150.00
Hotels	\$300.00
Meals	\$75.00
Rental Car	\$150.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$2,119.00**

**SUBTOTAL: \$241,800.00**

**SUBCONSULTANTS FEE: \$0.00**

**TOTAL FEE: \$241,800.00**

**Exhibit B****El Paso International Airport  
General Aviation Ramp Reconstruction****Bidding Services - STAGE I (2023)**

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I	T-2 Technician II
	\$296.00	\$229.00	\$194.00	\$165.00	\$139.00	\$153.00
	hr	hr	hr	hr	hr	hr
<b>1. Project Management</b>						
Prospective bidder outreach	4					
Attend Pre-Bid Meeting	10					
Evaluate bids and recommend award	1	2			2	
<b>Subtotal - Project Management</b>	<b>15</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>
<b>2 Civil Engineering</b>						
Addendums/Inquiries	1	4			12	
<b>Subtotal - Civil Engineering</b>	<b>1</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>0</b>
<b>3 Electrical Engineering</b>						
Addendums/Inquiries						
Prepare for Pre-Bid Meeting			2		4	
<b>Subtotal - Electrical Engineering</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>0</b>

<b>Hours</b>	<b>16</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>18</b>	<b>0</b>
<b>Salary Costs</b>	<b>\$4,736.00</b>	<b>\$1,374.00</b>	<b>\$388.00</b>	<b>\$0.00</b>	<b>\$2,502.00</b>	<b>\$0.00</b>

**SUBTOTAL - SALARIES: \$9,000.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$95.00
Postage/Freight/Courier	\$80.00
Office Supplies/Equipment	\$50.00
Airfare	\$350.00
Mileage/Tolls/Parking	\$50.00
Hotels	\$100.00
Meals	\$25.00
Rental Car	\$50.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$800.00**

**SUBTOTAL: \$9,800.00**

**SUBCONSULTANTS FEE: \$0.00**

**TOTAL FEE: \$9,800.00**

**Exhibit B****El Paso International Airport  
General Aviation Ramp Reconstruction****Bidding Services - STAGE II (2024)**

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I	T-2 Technician II
	\$305.00	\$236.00	\$200.00	\$170.00	\$144.00	\$158.00
	hr	hr	hr	hr	hr	hr
<b>1. Project Management</b>						
Prospective bidder outreach	4					
Attend Pre-Bid Meeting	10					
Evaluate bids and recommend award	1	2			2	
<b>Subtotal - Project Management</b>	<b>15</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>
<b>2 Civil Engineering</b>						
Addendums/Inquiries	1	4			12	
<b>Subtotal - Civil Engineering</b>	<b>1</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>0</b>
<b>3 Electrical Engineering</b>						
Addendums/Inquiries						
Prepare for Pre-Bid Meeting			2		4	
<b>Subtotal - Electrical Engineering</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>0</b>

<b>Hours</b>	<b>16</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>18</b>	<b>0</b>
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<b>Salary Costs</b>	<b>\$4,880.00</b>	<b>\$1,416.00</b>	<b>\$400.00</b>	<b>\$0.00</b>	<b>\$2,592.00</b>	<b>\$0.00</b>
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<b>SUBTOTAL - SALARIES:</b>	<b>\$9,288.00</b>
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**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$95.00
Postage/Freight/Courier	\$80.00
Office Supplies/Equipment	\$42.00
Airfare	\$400.00
Mileage/Tolls/Parking	\$50.00
Hotels	\$100.00
Meals	\$25.00
Rental Car	\$50.00

<b>SUBTOTAL - DIRECT NON-LABOR EXPENSES:</b>	<b>\$842.00</b>
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<b>SUBTOTAL:</b>	<b>\$10,130.00</b>
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<b>SUBCONSULTANTS FEE:</b>	<b>\$0.00</b>
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<b>TOTAL FEE:</b>	<b>\$10,130.00</b>
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**Exhibit B****El Paso International Airport  
General Aviation Ramp Reconstruction****Bidding Services - STAGE III (2025)**

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I	T-2 Technician II
	\$314.00	\$243.00	\$206.00	\$175.00	\$148.00	\$163.00
	hr	hr	hr	hr	hr	hr
<b>1. Project Management</b>						
Prospective bidder outreach	4					
Attend Pre-Bid Meeting	10					
Evaluate bids and recommend award	1	2			2	
<b>Subtotal - Project Management</b>	<b>15</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>
<b>2 Civil Engineering</b>						
Addendums/Inquiries	1	4			12	
<b>Subtotal - Civil Engineering</b>	<b>1</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>0</b>
<b>3 Electrical Engineering</b>						
Addendums/Inquiries						
Prepare for Pre-Bid Meeting			2		4	
<b>Subtotal - Electrical Engineering</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>0</b>

<b>Hours</b>	<b>16</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>18</b>	<b>0</b>
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<b>Salary Costs</b>	<b>\$5,024.00</b>	<b>\$1,458.00</b>	<b>\$412.00</b>	<b>\$0.00</b>	<b>\$2,664.00</b>	<b>\$0.00</b>
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<b>SUBTOTAL - SALARIES:</b>	<b>\$9,558.00</b>
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**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$110.00
Postage/Freight/Courier	\$80.00
Office Supplies/Equipment	\$57.00
Airfare	\$400.00
Mileage/Tolls/Parking	\$50.00
Hotels	\$100.00
Meals	\$25.00
Rental Car	\$50.00

<b>SUBTOTAL - DIRECT NON-LABOR EXPENSES:</b>	<b>\$872.00</b>
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<b>SUBTOTAL:</b>	<b>\$10,430.00</b>
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<b>SUBCONSULTANTS FEE:</b>	<b>\$0.00</b>
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<b>TOTAL FEE:</b>	<b>\$10,430.00</b>
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**Exhibit B****El Paso International Airport  
General Aviation Ramp Reconstruction****Construction Administration - STAGE I (2023)  
Assumed 240 Calendar Day Construction**

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I
	\$296.00	\$229.00	\$194.00	\$165.00	\$139.00
	hr	hr	hr	hr	hr
<b>1 Project Management</b>					
Prepare for, attend, and conduct pre-construction meeting	12	10			
Weekly Progress Teleconference (35 meetings)	35	40			
Coordination with RPR	40				
Progress Meetings with Contractor/City (8 meetings)	80	40			40
Attend pre-pave meeting	8				
<b>Subtotal - Project Management</b>	<b>175</b>	<b>90</b>	<b>0</b>	<b>0</b>	<b>40</b>
<b>2 Civil Engineering</b>					
Material Submittal Reviews	8				40
RFI Responses	24				24
Review Change Orders	6				20
FAA and Airport Coordination	50				4
Preliminary Punchlist Meeting	12				
Final Completion Walk-through	10				
<b>Subtotal - Civil Engineering</b>	<b>110</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>88</b>
<b>3 Electrical Engineering</b>					
Weekly Progress Teleconference (12 meetings)			12		8
Coordination with RPR			16		
Coordination with Contractor			8		
Progress Meetings with Contractor/City (2 meetings)			20		12
Material Submittal Reviews			4		24
RFI Responses			12		
Final Completion Walk-through			10		
<b>Subtotal - Civil Engineering</b>	<b>0</b>	<b>0</b>	<b>82</b>	<b>0</b>	<b>44</b>
<b>Hours</b>	<b>285</b>	<b>90</b>	<b>82</b>	<b>0</b>	<b>172</b>
<b>Salary Costs</b>	<b>\$84,360.00</b>	<b>\$20,610.00</b>	<b>\$15,908.00</b>	<b>\$0.00</b>	<b>\$23,908.00</b>

**SUBTOTAL - SALARIES: \$144,786.00**



**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$100.00
Postage/Freight/Courier	\$39.00
Office Supplies/Equipment	\$50.00
Airfare	\$5,250.00
Mileage/Tolls/Parking	\$750.00
Hotels	\$1,500.00
Meals	\$375.00
Rental Car	\$750.00

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**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$8,814.00**

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**SUBTOTAL: \$153,600.00**

**SUBCONSULTANTS FEE: \$0.00**

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**TOTAL FEE: \$153,600.00**

**Exhibit B****El Paso International Airport  
General Aviation Ramp Reconstruction****Construction Administration - STAGE II (2024)  
Assumed 240 Calendar Day Construction**

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I
	\$305.00	\$236.00	\$200.00	\$170.00	\$144.00
	hr	hr	hr	hr	hr
<b>1 Project Management</b>					
Prepare for, attend, and conduct pre-construction meeting	12	10			
Weekly Progress Teleconference (35 meetings)	35	40			
Coordination with RPR	40				
Progress Meetings with Contractor/City (8 meetings)	80	40			40
Attend pre-pave meeting	8				
<b>Subtotal - Project Management</b>	<b>175</b>	<b>90</b>	<b>0</b>	<b>0</b>	<b>40</b>
<b>2 Civil Engineering</b>					
Material Submittal Reviews	8				40
RFI Responses	24				24
Review Change Orders	6				20
FAA and Airport Coordination	50				4
Preliminary Punchlist Meeting	12				
Final Completion Walk-through	10				
<b>Subtotal - Civil Engineering</b>	<b>110</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>88</b>
<b>3 Electrical Engineering</b>					
Weekly Progress Teleconference (12 meetings)			12		8
Coordination with RPR			16		
Coordination with Contractor			8		
Progress Meetings with Contractor/City (2 meetings)			20		12
Material Submittal Reviews			4		24
RFI Responses			12		
Final Completion Walk-through			10		
<b>Subtotal - Civil Engineering</b>	<b>0</b>	<b>0</b>	<b>82</b>	<b>0</b>	<b>44</b>
<b>Hours</b>	<b>285</b>	<b>90</b>	<b>82</b>	<b>0</b>	<b>172</b>
<b>Salary Costs</b>	<b>\$86,925.00</b>	<b>\$21,240.00</b>	<b>\$16,400.00</b>	<b>\$0.00</b>	<b>\$24,768.00</b>

**SUBTOTAL - SALARIES: \$149,333.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$100.00
Postage/Freight/Courier	\$42.00
Office Supplies/Equipment	\$50.00
Airfare	\$6,000.00
Mileage/Tolls/Parking	\$750.00
Hotels	\$1,500.00
Meals	\$375.00
Rental Car	\$750.00

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**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$9,567.00**

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**SUBTOTAL: \$158,900.00**

**SUBCONSULTANTS FEE: \$0.00**

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**TOTAL FEE: \$158,900.00**

## Exhibit B

### El Paso International Airport General Aviation Ramp Reconstruction

#### Construction Administration - STAGE III (2025) Assumed 240 Calendar Day Construction

WORK TASK DESCRIPTION	E-6 Senior Project Manager	E-4 Project Manager II	E-3 Project Manager I	E-2 Project Engineer II	E-1 Project Engineer I
	\$314.00	\$243.00	\$206.00	\$175.00	\$148.00
	hr	hr	hr	hr	hr
<b>1 Project Management</b>					
Prepare for, attend, and conduct pre-construction meeting	12	10			
Weekly Progress Teleconference (35 meetings)	35	40			
Coordination with RPR	40				
Progress Meetings with Contractor/City (8 meetings)	80	40			40
Attend pre-pave meeting	8				
<b>Subtotal - Project Management</b>	<b>175</b>	<b>90</b>	<b>0</b>	<b>0</b>	<b>40</b>
<b>2 Civil Engineering</b>					
Material Submittal Reviews	8				40
RFI Responses	24				24
Review Change Orders	6				20
FAA and Airport Coordination	50				4
Preliminary Punchlist Meeting	12				
Final Completion Walk-through	10				
<b>Subtotal - Civil Engineering</b>	<b>110</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>88</b>
<b>3 Electrical Engineering</b>					
Weekly Progress Teleconference (12 meetings)			12		8
Coordination with RPR			16		
Coordination with Contractor			8		
Progress Meetings with Contractor/City (2 meetings)			20		12
Material Submittal Reviews			4		24
RFI Responses			12		
Final Completion Walk-through			10		
<b>Subtotal - Civil Engineering</b>	<b>0</b>	<b>0</b>	<b>82</b>	<b>0</b>	<b>44</b>
<b>Hours</b>	<b>285</b>	<b>90</b>	<b>82</b>	<b>0</b>	<b>172</b>
<b>Salary Costs</b>	<b>\$89,490.00</b>	<b>\$21,870.00</b>	<b>\$16,892.00</b>	<b>\$0.00</b>	<b>\$25,456.00</b>

**SUBTOTAL - SALARIES: \$153,708.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$125.00
Postage/Freight/Courier	\$42.00
Office Supplies/Equipment	\$50.00
Airfare	\$6,000.00
Mileage/Tolls/Parking	\$750.00
Hotels	\$1,500.00
Meals	\$375.00
Rental Car	\$750.00

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**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$9,592.00**

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**SUBTOTAL: \$163,300.00**

**SUBCONSULTANTS FEE: \$0.00**

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**TOTAL FEE: \$163,300.00**

**ATTACHMENT “C”**  
**CONSULTANT’S BASIC AND ADDITIONAL SERVICES**

For the “**EPIA-GENERAL AVIATION RAMP RECONSTRUCTION**” hereinafter referred to as the Project, the Consultant will provide the Basic and Additional Services as noted herein.

**BASIC SERVICES OF THE CONSULTANT**

**GENERAL**

1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
2. The Consultant shall comply with the City of El Paso Engineering Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under this Agreement.
3. The Consultant shall serve as the Owner’s professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with oversight and management of the Project within the allocated budget. The Owner’s review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

**REPORT/CONCEPT PHASE**

1. Upon receipt of the Owner’s written authorization to proceed with the **Report Phase**, the Consultant shall:
  - a. Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.
  - b. Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.
  - c. (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's representative in connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.



include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

3. Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.
4. Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.
5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.
6. Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.
8. Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.
9. As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

## **PHASE II - PRE-FINAL DESIGN PHASE**

The Consultant shall do the following separately:

1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities. The Consultant shall be fully responsible for coordination with all utility companies to



resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.

2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the **“Drawings,”** to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called **“Specifications.”** These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.
3. Advise the Owner of any adjustment to the Consultant’s previous opinion of probable construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant’s cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor’s method of pricing and that the Consultant’s opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.
4. Prepare proposal forms.
5. As per Attachment “D”, furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.

### **PHASE III - FINAL DESIGN PHASE**

The Consultant shall do the following:

1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.
2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility company comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.
3. Submit to the Texas Department of Licensing and Regulation, or a State Certified ADA consultant, a set of Final Design Drawings for ADA review and approval.
4. As per Attachment "D", furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.
5. As per Attachment "D", furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.
6. Additional copies of the drawings and specifications beyond those identified in Attachment "D", required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

### **BIDDING PHASE**

Upon receipt of Owner's written request, the Consultant shall provide any of the following services during the Bidding Phase:

1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.
2. Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.
3. Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.
4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.

5. As identified in Attachment “A”, assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.
6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

### **CONSTRUCTION PHASE**

At Owner’s request, the Consultant shall provide any of the following services associated with the Construction Phase:

1. Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.
2. Advise and consult with the Owner and act as the Owner’s representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner’s standard general conditions for construction projects, with such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.
3. Unless otherwise stipulated in Attachment “A”, Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.
4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant’s efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor’s failure to perform the construction work in accordance with the construction contract documents.

Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. **Such review must be complete within ten City working days following receipt of submittal documents.** The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.
6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract documents, subject to the Owner's interpretation of such terms and conditions. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.
7. Based on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.
8. Conduct with the Owner and construction contractor no more **than two brief preliminary inspections**, at times requested by the construction contractor to determine if the Project is ready for final inspection.
9. Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the

construction contractor, a final inspection of the Project and prepare and publish a “punch list” of minor deficiencies to be corrected prior to final payment to the construction contractor. The “**punch list**” shall be furnished to the construction contractor and the Owner within **two City working days** after the final inspection.

10. Issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.
11. Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.
12. Furnish the Owner one set of reproducible (**D format**) “record” drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format
13. Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.
14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner’s request, have recommendations implemented by the construction contractor.
15. Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
16. Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.
17. Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.
18. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.
19. Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein.
20. Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.

21. Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.
22. Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.
23. Provide additional or extended services during construction made necessary by: **a)** work damaged by fire or other cause during construction; **b)** prolongation of the construction contract time by more than **twenty-five percent** provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; **c)** Acceleration of the work schedule involving services beyond normal city working hours; or **d)** the construction contractor's default under the construction contract due to delinquency or insolvency.
24. Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.
25. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.

### **ADDITIONAL SERVICES OF THE CONSULTANT**

#### **GENERAL**

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by **ten percent** or more.
3. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.

4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

#### **RESIDENT PROJECT SERVICES**

1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.
2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.
3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

## **ATTACHMENT “D” PAYMENT SCHEDULE**

For the project known as **“EPIA-GENERAL AVIATION RAMP RECONSTRUCTION”**, hereinafter referred to as the Project, the Owner will compensate the Consultant an amount not to exceed **\$1,913,810.00** for all Basic Services and reimbursables noted within the Agreement and its attachments.

### **PAYMENT SCHEDULE**

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

#### **Payment to Consultant**

**The compensation for each task described in Attachment “A”. Payment shall be made on a monthly basis. 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.**

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant’s proposal found in **Attachment “B”**. The time shown in **Attachment “B”** is an estimate. Should the services rendered during the construction phase exceed the estimated amount, written authorization will be required prior to rendering service. Written authorization shall be only by contract amendment in accordance with the contract provisions and applicable law.

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 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year.



The Consultant's invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> 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).

## **DELIVERABLE SCHEDULE**

### **CONCEPT PHASE**

The services called for in the Report Phase of this Agreement shall be completed concurrently with the preliminary design phase and **five (5) copies** of the Preliminary Study and Report shall be submitted within **30 consecutive calendar days** following the written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed.

### **PHASE I—PRELIMINARY DESIGN PHASE**

The services called for in **Phase I** of this Agreement shall be completed and **ten (10) copies** of any required documents and opinion of probable construction costs shall be submitted within **120 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed. If Owner does not approve the preliminary design documents, the Consultant shall furnish **five (5) copies** of the resubmitted design documents.

### **PHASE II—PRE-FINAL DESIGN PHASE**

The services called for in **Phase II** of this Agreement shall be completed and **ten (10) copies** the required documents and services shall be submitted within **90 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed.

### **PHASE III—FINAL DESIGN PHASE**

The services called for in **Phase III** of this Agreement shall be completed and **ten (10) copies** of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes shall be submitted within **60 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. After review, the Consultant shall submit to Owner **Three (3) copies** of the final revised design documents and specifications for final check. Upon the approval of the final design documents, the Consultant shall furnish **ten (10)**

**copies** of the final design documents and specifications for bidding to the Owner within **60 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### **PHASE IV—BIDDING PHASE**

Provide services as authorized by Owner during the bid phase as described in Attachment “C” and submit **one (1) copy** of all addenda to the Owner for appropriate action within **four (4) months**.

#### **PHASE V - CONSTRUCTION PHASE**

Provide services as authorized by Owner during construction phase as described in Attachment “C” and submit one set of Mylar and one set of electronic media format copies of all record drawings to the Owner within **eighteen (18) months** from the date of substantial completion.

**ATTACHMENT “E”  
INSURANCE CERTIFICATE**



# ATTACHMENT "E"

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/3/2022

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).

<b>PRODUCER</b> Stephens Insurance, LLC 111 Center Street, Suite 100 Little Rock, AR 72201  www.stephensinsurance.com	<b>CONTACT NAME:</b> <b>PHONE (A/C, No. Ext):</b> 1-800-643-9691 <b>FAX (A/C, No):</b> 501-377-2317 <b>E-MAIL ADDRESS:</b>  <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Charter Oak Fire Insurance Company (A++XV)</td> <td style="text-align: center;">25615</td> </tr> <tr> <td>INSURER B: Travelers Property Casualty Co of America (A++XV)</td> <td style="text-align: center;">25674</td> </tr> <tr> <td>INSURER C: Travelers Indemnity Co of America (A++XV)</td> <td style="text-align: center;">25666</td> </tr> <tr> <td>INSURER D: Starr Surplus Lines Insurance Company (A XV)</td> <td style="text-align: center;">13604</td> </tr> <tr> <td>INSURER E: Tokio Marine Specialty Insurance Company (A++XV)</td> <td style="text-align: center;">23850</td> </tr> <tr> <td>INSURER F: Underwriter at Lloyd's</td> <td style="text-align: center;">AA1122000</td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Charter Oak Fire Insurance Company (A++XV)	25615	INSURER B: Travelers Property Casualty Co of America (A++XV)	25674	INSURER C: Travelers Indemnity Co of America (A++XV)	25666	INSURER D: Starr Surplus Lines Insurance Company (A XV)	13604	INSURER E: Tokio Marine Specialty Insurance Company (A++XV)	23850	INSURER F: Underwriter at Lloyd's	AA1122000
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**COVERAGES****CERTIFICATE NUMBER:** 69579252**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"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/> OTHER: -0- Deductible	✓		P-630-1G052988-COF-22	7/1/2022	7/1/2023	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$2,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td style="text-align: right;">\$300,000</td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$10,000</td></tr> <tr><td>PERSONAL &amp; ADV INJURY</td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$4,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td style="text-align: right;">\$4,000,000</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	EACH OCCURRENCE	\$2,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,000	MED EXP (Any one person)	\$10,000	PERSONAL & ADV INJURY	\$1,000,000	GENERAL AGGREGATE	\$4,000,000	PRODUCTS - COMP/OP AGG	\$4,000,000		\$
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	\$																				
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	✓		810-1N886537-22-43-G	7/1/2022	7/1/2023	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>BODILY INJURY (Per person)</td><td style="text-align: right;">\$</td></tr> <tr><td>BODILY INJURY (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$				
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C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	UB-7K425966-22-43-G	7/1/2022	7/1/2023	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td><input checked="" type="checkbox"/> PER STATUTE</td> <td><input type="checkbox"/> OTH-ER</td> <td></td> </tr> <tr><td>E.L. EACH ACCIDENT</td><td></td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td></td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td></td><td style="text-align: right;">\$1,000,000</td></tr> </table>	<input checked="" type="checkbox"/> PER STATUTE	<input type="checkbox"/> OTH-ER		E.L. EACH ACCIDENT		\$1,000,000	E.L. DISEASE - EA EMPLOYEE		\$1,000,000	E.L. DISEASE - POLICY LIMIT		\$1,000,000		
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E.L. DISEASE - EA EMPLOYEE		\$1,000,000																			
E.L. DISEASE - POLICY LIMIT		\$1,000,000																			
D	Professional Liability- Claims Made Including Pollution Liability			1000634123221 Full Prior Acts applies.	7/1/2022	7/1/2023	Each Claim \$2,000,000														
E	Contractor's Pollution Liability			PPK2427376	7/1/2022	7/1/2023	Aggregate \$2,000,000														
F	Maritime Employer's Liability			PSR083616	7/1/2022	7/1/2023	Occurrence & Aggregate \$2,000,000 Combined Single Limit \$1,000,000														

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

See Attached  
 RE: 2022-0522 Architect and Engineering Services for EPIA / Garver Project: 22A25602

**CERTIFICATE HOLDER**

2022-0522 Architect and Engineering Services for EPIA / Garver Project:  
 22A25602  
 City of El Paso  
 6701 Convair Road  
 El Paso TX 79925

**CANCELLATION**

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

Ted Grace

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ACORD 25 (2016/03)

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**758**



# **ADDITIONAL REMARKS SCHEDULE**

<b>AGENCY</b> Stephens Insurance, LLC		<b>NAMED INSURED</b> Garver LLC 221 N. Kansas Street, Suite 1208 Ste. 730 El Paso TX 79901	
<b>POLICY NUMBER</b> P-630-1G052988-COF-22			
<b>CARRIER</b> Charter Oak Fire Insurance Company (A++XV)	<b>NAIC CODE</b> 25615	<b>EFFECTIVE DATE:</b> 7/1/2022	

## **ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**

**FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability (03/16)

**HOLDER:** City of El Paso

**ADDRESS:** 6701 Convair Road El Paso TX 79925

The following policy endorsements apply to the Certificate Holder and other named person or organization if you have agreed in written contract:

Certificate Holder is an Additional Insured on the General Liability per Blanket Endorsement CGD414 and Primary & Non-contributory basis by Blanket Endorsement CG2037 Includes Completed Operations.

Certificate Holder is an Additional Insured on a Primary & Non-contributory basis per Blanket Auto Endorsement CAT474.

Certificate Holder is an Additional Insured under the Umbrella policy on a Primary & Non-contributory basis per the follow form wording.

Waiver of Subrogation applies in favor of the Certificate Holder under the General Liability by Blanket Endorsement CGD379.

Waiver of Subrogation applies in favor of the Certificate Holder under the Automobile by Blanket Endorsement CAT353.

Waiver of Subrogation applies under the Umbrella per follow form wording if required by written contract.

Waiver of Subrogation applies in favor of the Certificate Holder under the Worker's Compensation by Blanket Endorsement WC000313. Form WC420304 Texas. Form WC9903J9 Kansas. WC430306 Utah.

Waiver of Subrogation applies in favor of the Certificate Holder under the Professional Liability. This is provided within the Starr Professional Liability policy form.

30 day notice will be provided to the Certificate Holder in the event of Cancellation, Non-renewal, Material Change per Blanket Endorsement ILT804-General Liability & ILT354 (03/98) on the Automobile.

Notice of Cancel, Non-renewal, Material Change will be sent per WC Blanket Endorsement WC9906R5.

Notice of Cancel, Non-renewal and Reduction of Limits will be provided by the Professional Liability Carrier per Blanket Endorsement.

Notice of Cancel for non-payment of premium is provided if Certificate Holder is specifically endorsed to the Professional Liability policy (Endt to be attached with this certificate if applicable).

\*\*\* (Notice of Cancel for non-payment of premium will not be provided to the Certificate Holder by Travelers Ins. Co. (applies to the General Liability, Automobile Liability and Umbrella policies).

Valuable Papers is provided under policy P-630-1G052988-COF-22 shown above with a limit of \$500,000.

General Liability policy form CGT001 includes Severability (Separation) of Interest (Insured's) Clause and includes Work within railroad by endorsement CG D3 79.

Worker's Compensation Policy includes coverage for USL&H exposures without endorsement to the policy per endorsement WC000106.



Legislation Text

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File #: 22-1106, Version: 2

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Economic and International Development, Anne Guayante, (915) 212-1623

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action on the approval of a Resolution to authorize the City Manager to accept and sign a grant agreement for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant from the United States Department of Transportation (USDOT) for the Ysleta Port of Entry Pedestrian and Related Improvements Project. This authorization shall include the original grant agreement, any related modifications, and any other documents when the form and substance of those documents have been reviewed and approved by the City Attorney's Office, and the authorization will include the ability to sign multiple agreements and documents, as the grant might be issued in various disbursement. That the City Manager may be authorized to approve and sign any budget transfers needed to establish appropriations in connection with this grant. The total grant amount shall include an estimated federal share of \$12,000,000 and an estimated match of \$3,000,000 to be paid for with P3 Funds, totaling \$15,000,000 for the Ysleta Port of Entry Pedestrian and Related Improvements Project.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Anne Guayante, 915-212-1623  
[GuayanteAM@elpasotexas.gov](mailto:GuayanteAM@elpasotexas.gov),

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

**SUBGOAL:**

**SUBJECT:**

Approval of a resolution to authorize the City Manager to accept and sign a grant agreement for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant from the United States Department of Transportation (USDOT) for the Ysleta Port of Entry Pedestrian and Related Improvements Project. This authorization shall include the original grant agreement, any related modifications, and any other documents when the form and substance of those documents have been reviewed and approved by the City Attorney's Office, and the authorization will include the ability to sign multiple agreements and documents, as the grant might be issued in various disbursement. That the City Manager may be authorized to approve and sign any budget transfers needed to establish appropriations in connection with this grant. The total grant amount shall include an estimated federal share of \$12,000,000 and an estimated match of \$3,000,000 to be paid for with P3 Funds, totaling \$15,000,000 for the Ysleta Port of Entry Pedestrian and Related Improvements Project.

**BACKGROUND / DISCUSSION:**

On February 15, 2022 City Council voted to support staff's submittal of the Ysleta Port of Entry Pedestrian and Related Improvements Project for a RAISE Grant from the USDOT as part of the City's commitment to the success of its land ports of entry. On August 9, 2022, it was announced that this application was successful, and that USDOT has granted the City of El Paso a \$12,000,000 grant for this project, with a \$3,000,000 local match. This is the full requested amount.

**PRIOR COUNCIL ACTION:**

February 15, 2020: City Council voted to support staff's submittal of the Ysleta Port of Entry Pedestrian Improvement Project for a RAISE Grant from the USDOT

**AMOUNT AND SOURCE OF FUNDING:**

\$3 million dollars in required grant matching funds from International Bridges Restricted Fund (P3 program) – Dept. 564 - Fund 3360 - Division 64870.

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

**PRIMARY DEPARTMENT:** International Bridges Department

**SECONDARY DEPARTMENT:** Capital Improvements Department

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

**DEPARTMENT HEAD:**

*David A. Coronado*

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David Coronado,  
Director, International Bridges Department  
Revised 04/09/2021

## **RESOLUTION**

**WHEREAS**, on November 15, 2021, President Joseph R. Biden signed the Infrastructure and Jobs Act of 2021 into law and appropriated \$1.5 billion to be awarded by the United States Department of Transportation (DOT) for fiscal year 2022 for Local and Regional Project Assistance Program Grants under the National Infrastructure Investments program; and,

**WHEREAS**, the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program provides communities of all sizes the opportunity to modernize their infrastructure through the DOT; and,

**WHEREAS**, hundreds of applications are sent in from around the country for the DOT to invest in road, rail, transit, and port projects that aim to meet national objectives; and,

**WHEREAS**, each project is rigorously reviewed on the criteria of safety, state of repair, economic competitiveness, opportunity, quality of life, or innovation then selected based on merit; and,

**WHEREAS**, on February 15, 2022 City Council voted to support staff's submittal of the Ysleta Port of Entry Pedestrian and Related Improvements Project (Project) for a RAISE Grant from the DOT as part of the City's commitment to the success of its land ports of entry; and,

**WHEREAS**, on August 9, 2022, it was announced that this application was successful, and that DOT has awarded the City of El Paso a \$12,000,000 grant for this Project, with a \$3,000,000 local match for an expected total Project budget of \$15,000,000; and,

**WHEREAS**, the Ysleta Port of Entry Pedestrian and related improvements will help provide needed amenities for pedestrians, bicycles and Sun Metro riders who use the Ysleta Port of Entry to travel between El Paso and Ciudad Juarez

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

That the City Manager be authorized to accept and sign a grant agreement for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant from the United States Department of Transportation (DOT) for the Ysleta Port of Entry Pedestrian and Related Improvements Project (Project).

That this authorization shall include the original grant agreement, any related modifications or amendments, and any other documents when the form and substance of those documents have been reviewed and approved by the City Attorney's Office, and the authorization will include the ability to sign multiple agreements and documents, as the grant might be issued in various disbursements.

That the City Manager may be authorized to approve, effectuate, and sign any budget transfers needed to establish appropriations in connection with this grant.



The total grant amount shall include an estimated federal share of \$12,000,000 and an estimated match of \$3,000,000 to be paid for with the City of El Paso's P3 Funds, totaling \$15,000,000 for the Ysleta Port of Entry Pedestrian and Related Improvements Project.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_, 2022

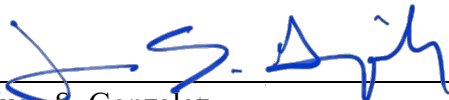
**CITY OF EL PASO:**

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


**ATTEST:**

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Juan S. Gonzalez  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
David Coronado  
Director of International Bridges



Legislation Text

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File #: 22-1109, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Economic and International Development, Bill Allen, (915) 212-1619

Economic and International Development, Elizabeth Triggs, (915) 212-1619

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action on a Resolution of the City Council of the City of El Paso nominating Phelps Dodge Refining Corporation for participation in the Texas Enterprise Zone Program, a state sales and use tax refund program designed to encourage private investment and job creation and/or retention in economically distressed areas of the state.

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

**AGENDA DATE:** August 16, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Bill Allen, 915-212-1619  
Elizabeth Triggs, 915-212 - 1619

**DISTRICT(S) AFFECTED:** 3

**STRATEGIC GOAL:** Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

**SUBGOAL:** 1.1 Stabilize and expand El Paso's tax base

**SUBJECT:**

Discussion and action on a resolution of the City Council of the City of El Paso nominating Phelps Dodge Refining Corporation for participation in the Texas Enterprise Zone Program, a state sales and use tax refund program designed to encourage private investment and job creation and/or retention in economically distressed areas of the state.

**BACKGROUND / DISCUSSION:**

The Texas Enterprise Zone Program is a state sales and use tax refund program designed to encourage private investment and job creation in economically distressed areas of the state. Under the program, Texas communities may nominate companies in their jurisdiction to receive an Enterprise Zone designation. Following designation and upon meeting minimum capital investment thresholds and job creation and/or retention metrics, the company is eligible to receive state sales and use tax refunds on its qualified expenditures.

This resolution authorizes the City to nominate Phelps Dodge Refining Corporation located at 897 Hawkins Blvd., El Paso, TX as an Enterprise Zone project to the Office of the Governor Economic Development and Tourism. If selected for participation in the program, Phelps Dodge Corporation commits to: 1) investing a minimum of \$20 million in its facility; 2) retaining 403 FTEs during the term of the agreement; and 3) ensuring at least 35 percent of any new hires are residents of an enterprise zone, economically disadvantaged, or veterans.

Through this nomination, there is no impact to City funds; rather, the program enables the City to leverage state sales and use tax refunds to secure additional private investment and the retention of jobs for the El Paso community. Approval of this resolution enables the company's application for Enterprise Zone project designation to proceed for review and approval by the Texas Economic Development and Tourism Office. The state of Texas allocates up to 9 project designations per biennium for municipalities with populations of 250k or more, and only approves up to 12 designations per quarterly round. This nomination, if approved, is the City of El Paso's third nomination during the current FY 22-23 State biennium.

**PRIOR COUNCIL ACTION:**

Previous nominations during the current biennium include:

- May 24, 2022 – El Paso Healthcare Systems, LTD, TEZ Designation
- August 30, 2021 – Charter Communications, Inc. TEZ Designation

**AMOUNT AND SOURCE OF FUNDING:**

There is no impact to City funds; rather the Texas Enterprise Zone designation enables business to receive only state sales and use tax refunds, upon meeting certain minimum capital investment and job creation and/or retention criteria.

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**   X   YES      NO

**PRIMARY DEPARTMENT:** Economic and International Development

**SECONDARY DEPARTMENT:** N/A

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

**DEPARTMENT HEAD:** Elizabeth Triggs, Director, Economic & International Development



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

**A RESOLUTION NOMINATING PHELPS DODGE REFINING CORPORATION  
AS A TEXAS STATE ENTERPRISE ZONE PROJECT**

**WHEREAS**, the City Council of the City of El Paso ("City") has previously passed Ordinance No. 017116 on May 26, 2009, electing to participate in the Texas Enterprise Zone Program; and

**WHEREAS**, the local incentives offered under this Resolution are the same on this date as were outlined in Ordinance No. 017116; and

**WHEREAS**, pursuant to Chapter 2303, Subchapter F of the Texas Enterprise Zone Act, Texas Government Code ("Act"), Phelps Dodge Refining Corporation has applied to the City for designation as an enterprise zone project; and

**WHEREAS**, the Office of the Governor Economic Development and Tourism ("EDC") through the Economic Development Bank ("Bank") will consider Phelps Dodge Refining Corporation as an enterprise project pursuant to a nomination and an application made by the City; and

**WHEREAS**, the City desires to pursue the creation of the proper economic and social environment in order to induce the investment of private resources in productive business enterprises located in the city and to provide employment to residents of enterprise zones and to other economically disadvantaged individuals; and

**WHEREAS**, the City finds that Phelps Dodge Refining Corporation meets the criteria for designation as an enterprise project under Chapter 2303, Subchapter F of the Act on the following grounds:

1. Phelps Dodge Refining Corporation is a "qualified business" under Section 2303.402 of the Act since it will be engaged in the active conduct of a trade or business at a qualified business site located inside an enterprise zone and at least thirty-five percent (35%) of the business' new employees will be residents of an enterprise zone, economically disadvantaged individuals, or veterans; and
2. There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities within the area; and
3. The designation of Phelps Dodge Refining Corporation as an enterprise project will contribute significantly to the achievement of the plans of the City for development and revitalization of the area.

**WHEREAS**, the City finds that Phelps Dodge Refining Corporation meets the criteria for tax relief and other incentives adopted by the City and nominates Phelps Dodge Refining Corporation for enterprise project status on the grounds that it will be located at the qualified business site, will create a higher level of employment, economic activity and stability; and

**WHEREAS**, the City finds that it is in the best interest of the City to nominate Phelps Dodge Refining Corporation as an enterprise project pursuant to the Act.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. That Phelps Dodge Refining Corporation is a "qualified business" as defined in Section 2303.402 of the Act, and Phelps Dodge Refining Corporation meets the criteria for designation as an enterprise project, as set forth in Section 2303, Subchapter F of the Act;
2. That the enterprise zone project shall take effect on the date of designation of the enterprise project by the agency and terminate five years after date of designation; and
3. That the City Manager or his designee be authorized to sign any and all documents required by EDC to complete the nomination process.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**ATTEST:**

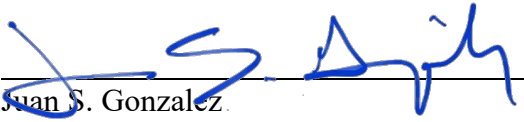
**THE CITY OF EL PASO:**

\_\_\_\_\_  
Laura Prine  
City Clerk

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

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Juan S. Gonzalez  
Senior Assistant City Attorney

  
\_\_\_\_\_  
Elizabeth Triggs, Director  
Economic & International Development



Legislation Text

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File #: 22-1049, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**District 8**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Providencia Velasquez, (915) 212-1567

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action on an appeal by the property owner of 1121 Terrace Court, El Paso, Texas in the Sunset Heights Historic District regarding a decision rendered by the Historic Landmark Commission (HLC) in HLC Case PHAP22-00022 on June 6, 2022, to deny a Certificate of Appropriateness for the referenced property.  
[POSTPONED FROM 08-16-2022]

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

**AGENDA DATE:** August 16, 2022

**PUBLIC HEARING DATE:** August 16, 2022

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Philip F. Etiwe, (915) 212-1553  
Providencia Velazquez, (915) 212-1567

**DISTRICT(S) AFFECTED:** 8

**STRATEGIC GOAL:** #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.1 Provide business friendly permitting and inspection process  
3.2 Set one standard for infrastructure across the city

**SUBJECT:**

Discussion and action on an appeal by the property owner of 1121 Terrace Court, El Paso, Texas in the Sunset Heights Historic District regarding a decision rendered by the Historic Landmark Commission (HLC) in HLC Case PHAP22-00022 on June 6, 2022, to deny a Certificate of Appropriateness for the referenced property. (District 8)

**BACKGROUND / DISCUSSION:**

On June 6, 2022, the Historic Landmark Commission voted unanimously to deny the application for a Certificate of Appropriateness for construction of a balcony structure on the main façade after-the-fact with the recommendations that the balcony structure be removed; the windows and doors be replaced with windows and doors to match the historic windows and doors; the fencing be removed and replaced with fencing meeting the guidelines; the stucco be removed from the retaining wall; the balcony, fencing, and stucco be removed within the next thirty (30) days; the windows and doors be replaced within the next sixty (60) days; and no permits shall be approved for the property until it is in compliance.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES \_\_\_ NO

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division

**SECONDARY DEPARTMENT:** N/A

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

**DEPARTMENT HEAD:**

*Philip Etiwe*

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## PLANNING AND INSPECTIONS DEPARTMENT

### MEMORANDUM

**DATE:** August 8, 2022

**TO:** The Honorable Mayor and City Council  
Tommy Gonzalez, City Manager

**FROM:** Providencia Velázquez, Historic Preservation Officer

**SUBJECT:** Appeal of Historic Landmark Commission Ruling in PHAP22-00022

---

The Historic Landmark Commission (HLC), on June 6, 2022, voted unanimously to **DENY** the Certificate of Appropriateness application for construction of a balcony structure on the main façade after-the-fact with the recommendations that the balcony structure be removed; the windows and doors be replaced with windows and doors to match the historic windows and doors; the fencing be removed and replaced with fencing meeting the guidelines; the stucco be removed from the retaining wall; the balcony, fencing, and stucco be removed within the next thirty (30) days; the windows and doors be replaced within the next sixty (60) days; and no permits shall be approved for the property until it is in compliance.

The HLC found that the proposal does not comply with the historic guidelines and that the request was brought before the commission after the construction had been completed, therefore, the commissioners were not allowed to comment on the work prior to the construction taking place. Based on the *Design Guidelines for El Paso's Historic Districts, Sites, and Properties*:

- *Site features that may exist on a property are swimming pools, pergolas, terraces and gardens and every effort should be made to retain those features that remain.*
- *Place non-traditional site features such as swimming pools, playground equipment, concrete pads and basketball goals, tree houses, dumpsters, and trash receptacles only in areas such as rear yards, where they are not visible from the street.*
- *New additions should be designed and constructed so that the character-defining features of the historic building are not radically changed, obscured, damaged or destroyed in the process of rehabilitation.*
- *Any new addition should be planned so that it is constructed to the rear of the property or on a non-character defining elevation and is minimally visible from the public right of way.*
- *Introduce additions in locations that are not visible from the street-generally on rear elevations.*
- *Locate additions carefully so they do not damage or conceal significant building features or details.*
- *Design an addition so it is compatible in roof form, proportions, materials and details with the existing structure.*
- *Design an addition that is compatible with but subtly different from existing historic homes in the district.*
- *Design an addition so that if removed in the future, the historic building's form and character defining features are not obscured, damaged, or destroyed.*

*The Secretary of the Interior's Standards for Rehabilitation recommend the following:*

- *The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*

- *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property.*

*The recommendations are that the balcony structure be removed; the windows and doors be replaced with windows and doors to match the historic windows and doors; the fencing be removed and replaced with fencing meeting the guidelines; the stucco be removed from the retaining wall; the balcony, fencing, and stucco be removed within the next thirty (30) days; the windows and doors be replaced within the next sixty (60) days; and no permits shall be approved for the property until it is in compliance.*

**Attachments:** Appeal Letter, Staff Report, Certificate of Appropriateness

July 20, 2022

City Clerk  
City of El Paso  
300 N. Campbell  
El Paso, Texas 79901

CITY CLERK DEPT  
2022 JUN 21 PM1:38

Re: Historic Landmark Commission Decision  
Property owner: Ricardo Feria  
Location: 1121 Terrace Court  
Legal Description: 7 Sunset Heights 30 & 31 (6000 Sq Ft), City of El Paso  
El Paso County, Texas

City Clerk,

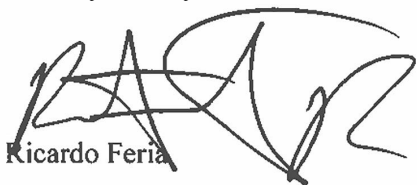
This is the required appeal to the City Council of El Paso regarding the denial of a Certificate of Appropriateness by the Historic Landmark Commission dated July 6, 2022.

What the Commission is requiring is like rebuilding the entire front of the house in 30-60 days and is impossible to accomplish. There are other pergolas and noncompliance in the neighborhood and this property has been targeted. Just walking through the neighborhood, it is obvious that there are multiple severe code violations and at least half the homes are not in compliance with the Historic Landmark Commissions guidelines.

The amount of money required to make the changes demanded by the Historic Landmark Commission would cause extreme economic hardship. These are changes that have been slowly made as funding was available to improve the property for the last 20 years. We have expressed a willingness to attempt to change the architectural look of the porch to make it like the main structure.

As the owner I am asking that the City Council to override the decision of the Historic Landmark Commission and let all the time and effort I have put into my house not be thrown out and my house be required to basically be rebuilt. I don't have the money to accomplish this.

Thank you for your consideration,

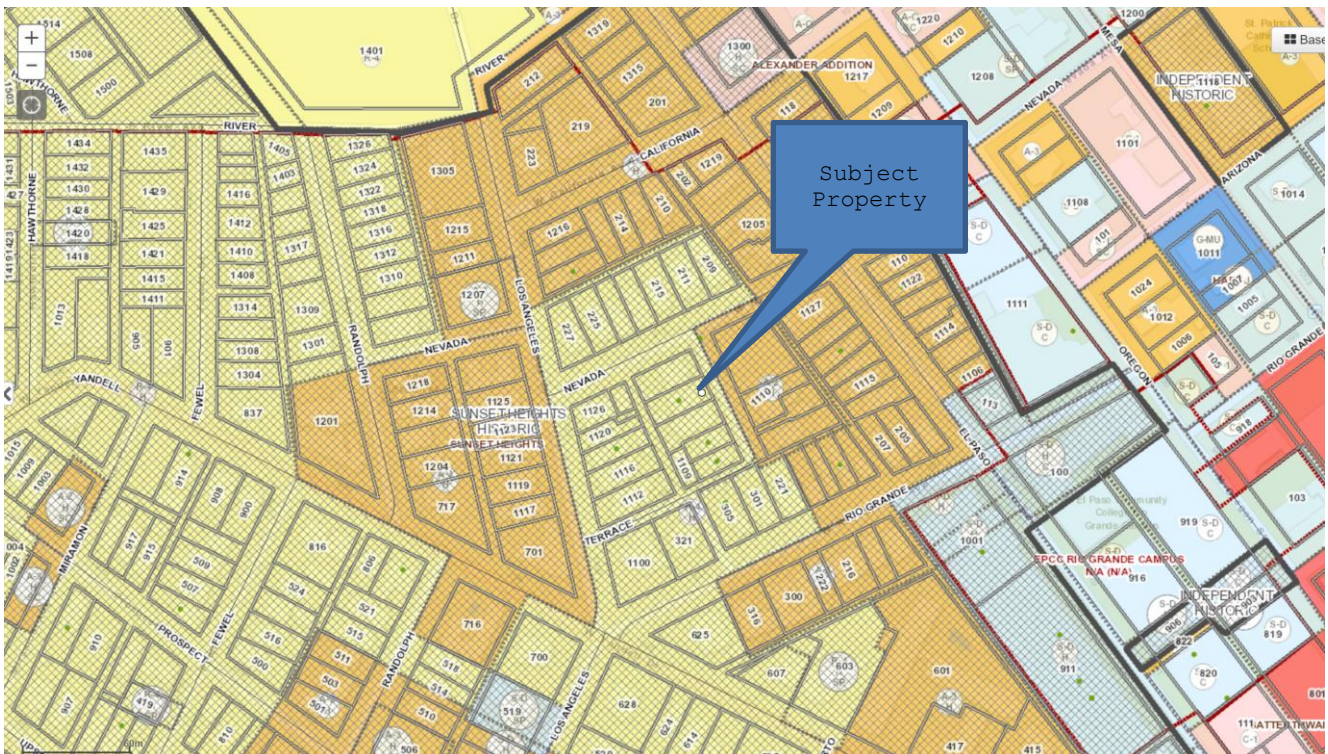
  
Ricardo Feria



## PHAP22-00022

**Date:** June 6, 2022  
**Application Type:** Certificate of Appropriateness  
**Property Owner:** Ricardo Feria  
**Representative:** Ricardo Feria  
**Legal Description:** 7 Sunset Heights 30 & 31 (6000 Sq Ft), City of El Paso, El Paso County, Texas  
**Historic District:** Sunset Heights  
**Location:** 1121 Terrace Court  
**Representative District:** #8  
**Existing Zoning:** R-4/H (Residential/Historic)  
**Year Built:** 1904  
**Historic Status:** Non-Contributing  
**Request:** Certificate of Appropriateness for construction of a balcony structure on the main façade after-the-fact  
**Application Filed:** 5/26/2022  
**45 Day Expiration:** 7/10/2022

### ITEM #3



**GENERAL INFORMATION:**

The applicant seeks approval for:

Certificate of Appropriateness for construction of a balcony structure on the main façade after-the-fact

**STAFF RECOMMENDATION:**

The Historic Preservation Office recommends DENIAL WITH RECOMMENDATIONS of the proposed scope of work based on the following recommendations:

*The Design Guidelines for El Paso's Historic Districts, Sites, and Properties* recommend the following:

- *Site features that may exist on a property are swimming pools, pergolas, terraces and gardens and every effort should be made to retain those features that remain.*
- *Place non-traditional site features such as swimming pools, playground equipment, concrete pads and basketball goals, tree houses, dumpsters, and trash receptacles only in areas such as rear yards, where they are not visible from the street.*
- *New additions should be designed and constructed so that the character-defining features of the historic building are not radically changed, obscured, damaged or destroyed in the process of rehabilitation.*
- *Any new addition should be planned so that it is constructed to the rear of the property or on a non-character defining elevation and is minimally visible from the public right of way.*
- *Introduce additions in locations that are not visible from the street-generally on rear elevations.*
- *Locate additions carefully so they do not damage or conceal significant building features or details.*
- *Design an addition so it is compatible in roof form, proportions, materials and details with the existing structure.*
- *Design an addition that is compatible with but subtly different from existing historic homes in the district.*
- *Design an addition so that if removed in the future, the historic building's form and character defining features are not obscured, damaged, or destroyed.*

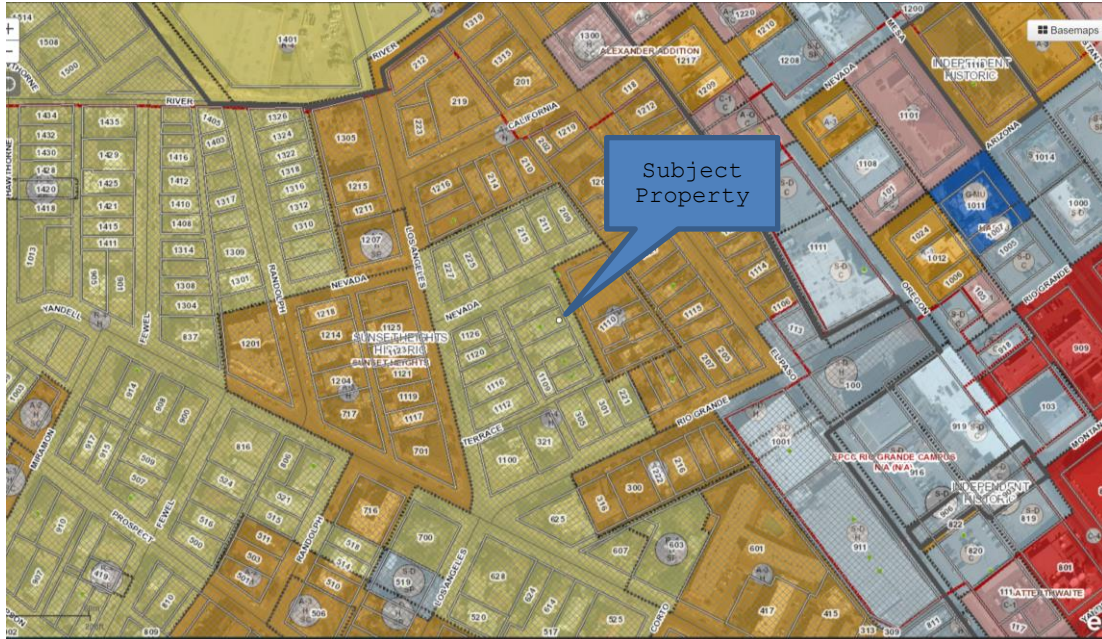
*The Secretary of the Interior's Standards for Rehabilitation* recommend the following:

- *The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*
- *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property.*

*The recommendations are that the balcony structure be removed; the windows and doors be replaced with windows and doors to match the historic windows and doors; the fencing be removed and replaced with fencing meeting the guidelines; the stucco be removed from the retaining wall; the balcony, fencing, and stucco be removed within the next thirty (30) days; the windows and doors be replaced within the next sixty (60) days; and no permits shall be approved for the property until it is in compliance.*



## AERIAL MAP



**PREVIOUS PHOTOGRAPH**





**CERTIFICATE  
OF  
APPROPRIATENESS**

**DENIED BY THE EL PASO HISTORIC LANDMARK COMMISSION**

This is to certify that the El Paso Historic Landmark Commission at its regular meeting scheduled on June 6, 2022 *reviewed and denied documentation submitted by:*

<b>Property Owner:</b>	<b>Ricardo Feria</b>
<b>Location:</b>	<b>1121 Terrace Court</b>
<b>Legal Description:</b>	<b>7 Sunset Heights 30 &amp; 31 (6000 Sq Ft), City of El Paso, El Paso County, Texas</b>

**For:**

**Certificate of Appropriateness for construction of a balcony structure on the main façade after-the-fact with the recommendations to have the balcony structure be removed; the windows and doors be replaced with windows and doors to match the historic windows and doors; the fencing be removed and replaced with fencing meeting the guidelines; the stucco be removed from the retaining wall; the balcony, fencing, and stucco be removed within the next thirty (30) days; the windows and doors be replaced within the next sixty (60) days; and no permits shall be approved for the property until it is in compliance**

The Commission finds that the proposed scope of work will adversely affect the architectural or historical significance of the Sunset Heights Historic District, within which this site is located.

**THEREFORE, appropriate building permits may not be issued.**

---

Ivan Lopez, Chair  
El Paso Historic Landmark Commission

---

Date





Item 41

# Appeal of HLC Decision for 1121 Terrace Court



**Strategic Goal 3.**

Promote the Visual  
Image of El Paso



# HLC Appeal Process – City Code 20.20.190



- HLC may approve, approve with modifications, or deny an application
- Applicants aggrieved by HLC decision, may appeal ruling to City Council
- Appeal must be submitted to the City Clerk within 15 days after ruling
- Public hearing must be held within 60 days after appeal is filed
- City Council may, by majority vote, uphold or overturn HLC ruling

# 1121 Terrace Court - PHAP22-00022

## Timeline

- 6.11.2018 – Enforcement case initiated for construction without required permits, setback violations and alterations to Historic property without approval, property owner issued stop work order
- 4.1.2019 - Due to non-compliance case submitted to Municipal Court
- 12.15.2020 – 2<sup>nd</sup> enforcement case due to non-compliance with 1<sup>st</sup> case. Notice of violation posted
  - No corrective actions taken after subsequent inspections
- Case submitted to Municipal Court - Case currently reset for future hearing
- 1.25.2021 – permit application submitted. Permit issuance denied due to not meeting zoning regulations and HLC requirements
- 5.31.2022 – Certificate of Appropriateness (C of A) application submitted
- 6.6.2022 - Historic Landmark Commission unanimously denied C of A due to non-compliance with design guidelines for the historic district and the city code

C. 2000



June 2022





C. 2000



June 2022

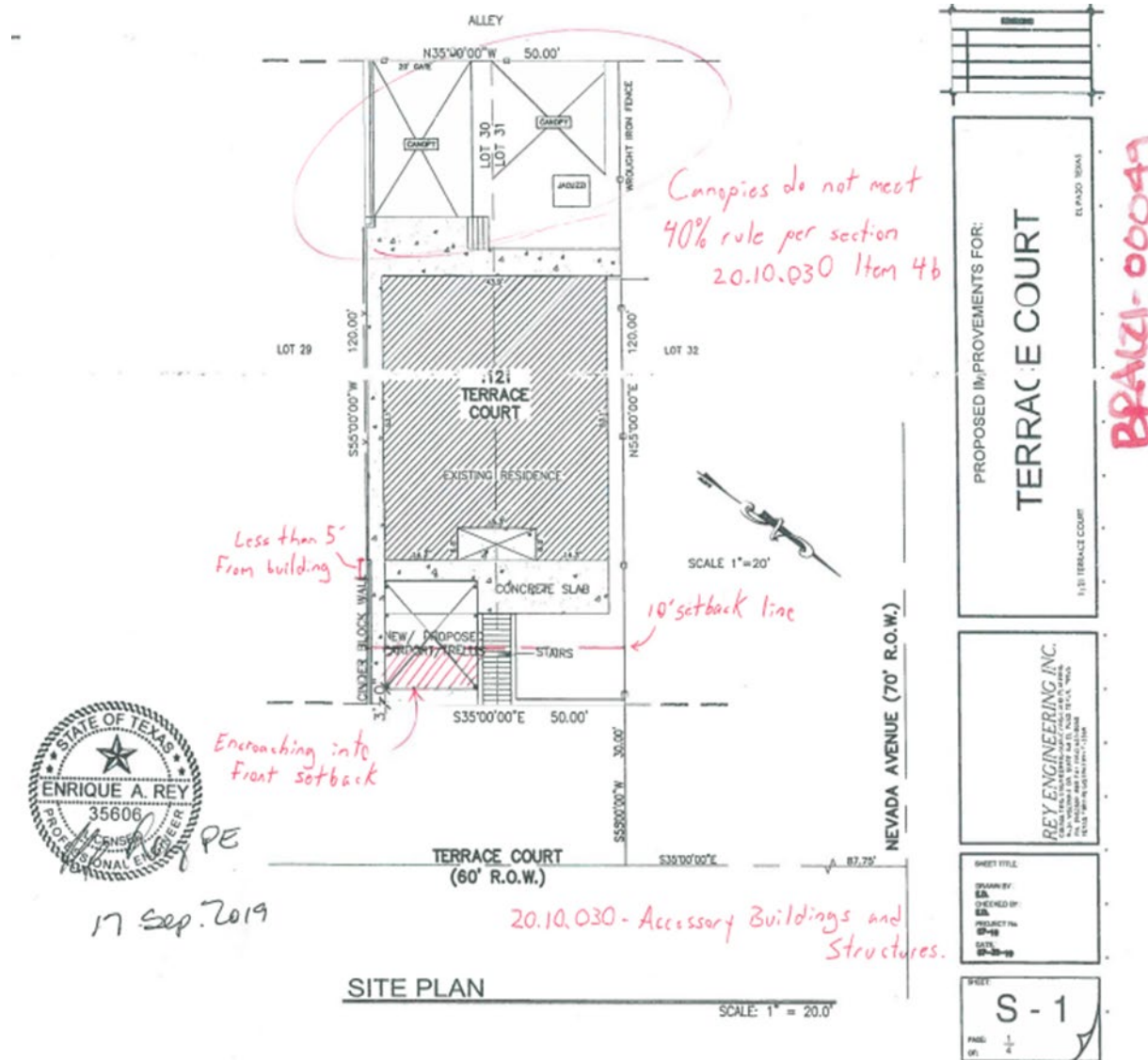


June 2022



Additions are also in violation of following provisions of El Paso City Code:

- Rear yard building coverage (El Paso City Code 20.10.030.A.4.b)
- Setback requirements for R-4/H zoning district (El Paso City Code Chapter 20 Appendix B)



# Staff Recommendation



- Uphold the Historic Landmark Commission denial of the Certificate of Appropriateness for 1121 Terrace Court



El Paso, TX

300 N. Campbell  
El Paso, TX

## Legislation Text

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File #: 22-1097, Version: 1

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### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

#### **All Districts**

City Manager's Office, K. Nicole Cote, (915) 212-1092

#### **AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action to approve the El Paso County 911 District FY 2022 - 2023 Budget to be presented by Scott Calderwood, Director.



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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:**

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

K. Nicole Cote, Interim Managing Director, (915) 212-1092

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** 6. Set the Standard for Sound Governance and Fiscal Management

**SUBGOAL:**

**SUBJECT:**

Discussion and action to approve the El Paso County 911 District FY 2022 – 2023 Budget to be presented by Scott Calderwood, Director.

**BACKGROUND / DISCUSSION:**

The Texas Health and Safety Code requires the District to submit the draft budget to its participating jurisdictions for review and feedback.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

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

**PRIMARY DEPARTMENT:** City Manager's Office - Office of Management and Budget

**SECONDARY DEPARTMENT:** All City

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

**DEPARTMENT HEAD:**



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

# El Paso County 911 District Budget Book



It's not about the destination-  
It's about the journey!

FY 2023



## El Paso County 911 District Budget Plan FY2023

Attached for your review is our proposed budget for FY2023. The El Paso County 911 District Board of Managers has approved this proposed budget. Per our governing statute the District must present our budget to all of the participating jurisdictions within El Paso County for their review and approval. The budget will then be formally adopted by the Board of Managers.

This budget is designed to move the El Paso Region into the next generation of 9-1-1 technology (NG911), interconnecting the community and first responders using the most efficient tools available. As we stand at the intersection of NG911 and the internet of things, the District is committed to unlocking the future of NG911 for El Paso.

We are proud of the excellent service we provide to the El Paso community and look forward to meeting with you to present our FY2023 budget. Please let us know if you have any questions and thank you for your support of El Paso's 9-1-1 system.

Sincerely,

Scott Calderwood, Director  
El Paso County 911 District  
6055 Threadgill Ave.  
El Paso, Texas 79924  
(915) 832 6812  
[scottc@elpaso911.org](mailto:scottc@elpaso911.org)

\* Should your jurisdiction choose to take no formal action, this budget will be automatically approved by operation of statute on the sixty-first day following your receipt of this document.

# EL PASO COUNTY 911 DISTRICT

## District Mission

The El Paso County 911 District is an emergency communications district, providing 9-1-1 service in El Paso for over 30 years. Our mission is to make a difference by providing outstanding professional services that facilitate the vital connection between our community and emergency services.

## District Vision

The El Paso County 911 District will be a leader and innovator bringing the latest and most efficient technology to our 9-1-1 community. We will be a model 9-1-1 center respected by others across the country. We will be a high performing organization powered by motivated professionals that work harmoniously and collaboratively to support our mission.

## District Governance

The District operates under Texas Health and Safety Code, Chapter 772. It is governed by a Board of Managers appointed by the entities it serves. By statute the Board is made up of one member from the County of El Paso, two members from the most populous city in the County (City of El Paso), one member from the second most populous city in the County (City of Socorro), one member appointed, at large, by the Board of Managers to represent all other entities within the County, and one member from the predominant phone service provider (AT&T).

## District Funding

The District is funded by 9-1-1 service fees. Fees are collected monthly from both wireline and wireless phones and remitted to the District. The Board maintains local control of wireline fees and sets the rate each year as a part of the budget process. For FY2023 the Board has maintained the fee from FY2015 of \$1.38 per residential line and \$4.46 per business line.

Wireless fees are set by the State of Texas. For FY2023 the wireless fee is \$.50 per line or 2% of any pre-paid phone service. The fees are collected by the State Comptrollers and distributed to 9-1-1 entities based on population.

# 2023 BOARD OF MANAGERS

Kristian Menendez, Chair  
Emergency Services District No. 1

At-Large Representative

Tom Whitten  
El Paso County Sheriff's Office

County of El Paso

Pete Pacillas  
El Paso Police Department

City of El Paso

David Burton  
Socorro Police Department

City of Socorro

Mario D'Agostino  
El Paso Fire Department

City of El Paso

Monica Ballesteros  
AT&T

Primary Phone Service Provider



# 911 DISTRICT VALUES

## “DO THE RIGHT THING”

### BE ACCOUNTABLE

Dependability  
Fairness  
Transparency

### PRACTICE INTEGRITY

Honesty  
Professionalism  
Trustworthy

### COLLABORATE

Build Relationships  
Be Creative and Innovate  
Teamwork

### INSPIRE

Self-Motivated  
Enthusiastic

### KINDNESS

Respect  
Compassion  
Service to Others

### HAVE FUN

# DISPATCH OFFICES SUPPORTED BY THE DISTRICT

- El Paso County Sheriff's Office
- Canutillo ISD Police Department
- City of El Paso 9-1-1 & 3-1-1 Communications
- City of Socorro Police Department
- Anthony Police Department
- Horizon City Police Department
- Emergency Service Districts (ESD) 1 & 2
- UTEP Police Department
- El Paso Independent School District Police Department
- Socorro Independent School District Police Department
- Ft. Bliss Directorate of Emergency Services
- El Paso Community College Police Department
- Texas Tech University Police Department
- Ysleta Del Sur Pueblo

# RESPONSE AGENCIES SUPPORTED BY THE DISTRICT

Anthony Police Department  
Clint Fire Department  
Clint Police Department  
El Paso County Precinct 1 Constable's Office  
El Paso County Precinct 2 Constable's Office  
El Paso County Precinct 3 Constable's Office  
El Paso County Precinct 4 Constable's Office  
El Paso County Precinct 5 Constable's Office  
El Paso County Precinct 6 Constable's Office  
El Paso County Precinct 7 Constable's Office  
County Fire Marshals (ESD1)  
County Fire Marshals (ESD2)  
El Paso 3-1-1  
El Paso Animal Control  
El Paso Community College Police Department  
El Paso County Ambulance Service  
El Paso Fire Department  
El Paso Fire Marshal

El Paso ISD Police Department  
El Paso Police Department  
El Paso County Sheriff's Office  
Fabens Fire Department  
Fort Bliss Fire Department  
Fort Bliss Military Police Department  
Horizon City Fire Department  
Horizon City Police Department  
Montana Vista Fire Department  
San Elizario Fire Department  
San Elizario Town Marshal  
Socorro Fire Department  
Socorro ISD Police Department  
Socorro Police Department  
Texas Tech Police Department  
UT El Paso Police Department  
West Valley Fire Department  
YDSP Fire Department

# Proposed FY 2023 Budget

	FY22 Budget	Proposed FY23 Budget	Percentage +/-
<b>Revenue</b>			
District Administration	8,473,400.00	9,179,940.00	8.34%
<b>Total Revenue</b>	<b>8,473,400.00</b>	<b>9,179,940.00</b>	<b>8.34%</b>
<b>Expenditures</b>			
<b>Operating</b>			
District Administration	1,942,891.88	1,991,180.43	2.49%
911 Network Operations	3,702,007.73	4,877,799.89	31.76%
Facility Operations	819,995.82	1,269,356.00	54.80%
<b>Total Operating</b>	<b>6,464,895.43</b>	<b>8,138,336.32</b>	<b>25.89%</b>
<b>Operating Capital</b>			
Capital Improvements	995,000.00	0.00	-100.00%
<b>Total Operating Capital</b>	<b>995,000.00</b>	<b>0.00</b>	<b>-100.00%</b>
<b>Agency Assistance</b>			
Agency Support Programs	601,500.00	684,900.00	13.87%
<b>Total Agency Assistance</b>	<b>601,500.00</b>	<b>684,900.00</b>	<b>13.87%</b>
<b>Total Expenditures</b>	<b>8,061,395.43</b>	<b>8,823,236.32</b>	<b>9.45%</b>

**FY23 Projected Revenues Surpasses Expenditures 356,703.68**

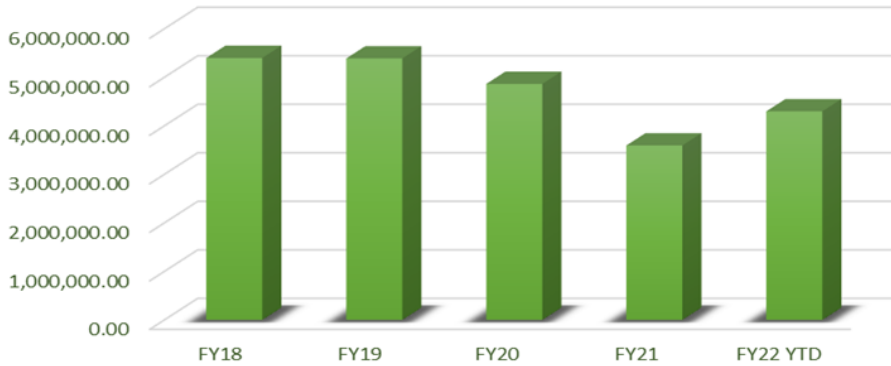


# FY 2023 PROPOSED REVENUE

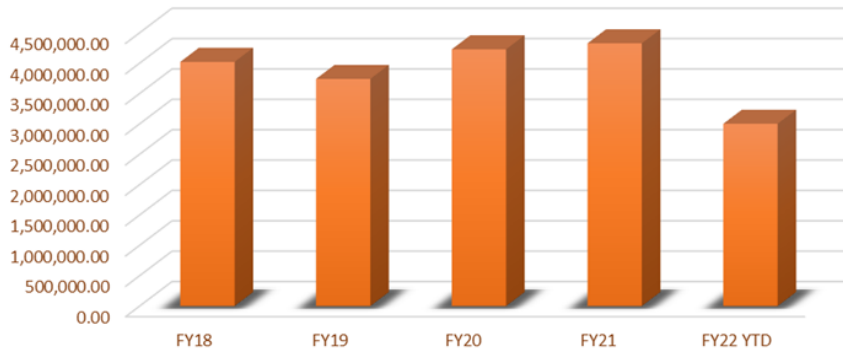
## WIRELINE AND WIRELESS (CSEC) ESTIMATED FEES \$9,179,940

Past Five Years Revenue History

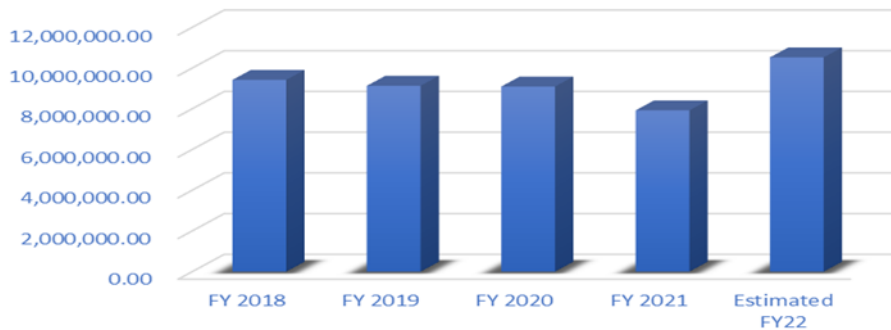
### Wireline



### Wireless CSEC



### Total Revenue Past Five Years



# FY23 Budget Summary

## District Administration

**\$1,991,180.43**

### Salaries

13 Full-time and 1 Part-time Professionals

### Benefits

Health, Dental, Vision, Life, Disability Insurance

Retirement, Employee Assistance Program

### Administration Operations

TML Liability Insurance, Public Meetings, Professional Training

Office/printing and administrative supplies

### Professional Memberships

911 Alliance, APCO, NENA, SHRM, GISP

### Professional Services

Audit services, Attorney fees

Shredding services, copier & printer maintenance contracts

## 911 Network Operations

**\$4,877,799.89**

### Telephone Connectivity

Call Center Equipment and Replacement

GIS Annual Maintenance: Maptext, Spectrum, American Messaging

Maintenance: AT&T, DIR, ESINet, Vesta, Verizon, Everbridge

### Software Upgrade/Maintenance Support

CAD and network maintenance:

Conterra, Comware, Presidio, GTS Tech, Masser Tech, Deccan

Abila, Solarwinds, Priority Dispatch. GTS Technology Solutions, Hexagon

## **FY23 Budget Summary**

### **Agency Support Programs**

**\$684,900.00**

Agency Technology Assistance

COEP-Interlocal Agreement-Digital Radio, Public Education Training

Promotional supplies and Telecommunicators Appreciation Week

Certifications/Recertifications

IAED, NENA, APCO, Priority Dispatch

### **Facility Operations**

**\$1,269,356.00**

Threadgill Facilities

Utilities, C&L Janitorial Services, Union Pacific 4th year parking lease

Maintenance & Services

Cleaning/janitorial supplies, facilities maintenance and repairs

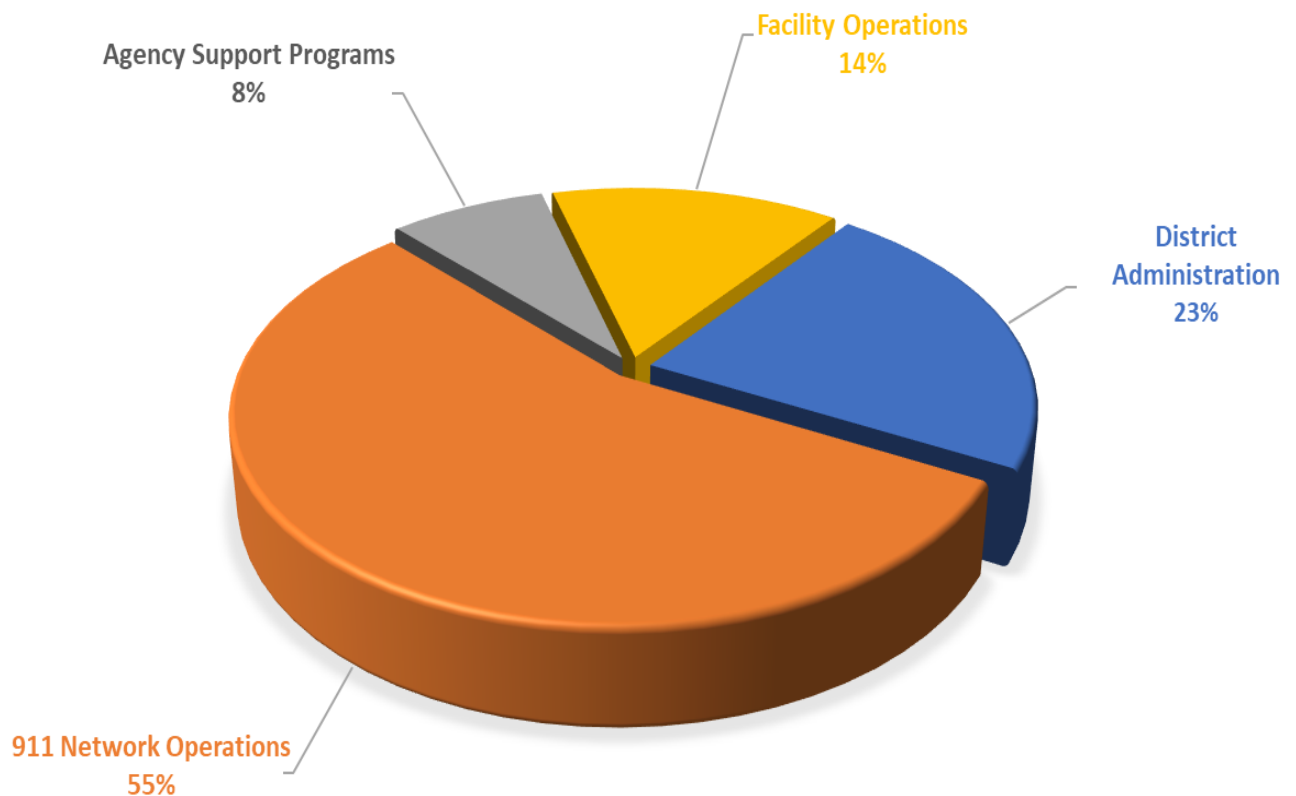
ChemTreat water treatment, gym maintenance, fire inspections

District Fleet Maintenance

Three District vehicles, Quarterly maintenance

Wear and tear repairs, gasoline for vehicles, yearly inspections

# PROPOSED BUDGET ALLOCATION



# EL PASO COUNTY 911 DISTRICT

## FY 2021 BUDGET SUMMARY

	FY 2021 Adopted	FY 2021 Actual
<b>Revenue</b>		
District Administration	9,415,000.00	8,075,651.11
<b>Total Revenue</b>	<b>9,415,000.00</b>	<b>8,075,651.11</b>
 <b>Debt</b>		
Bond Debt	1,712,225.09	1,712,225.04
<b>Total Debt</b>	<b>1,712,225.09</b>	<b>1,712,225.04</b>
 <b>Operating</b>		
District Administration	2,025,449.28	1,613,843.29
911 Network Operations	3,354,213.00	2,679,102.17
Facility Operations	866,458.00	749,741.73
<b>Total Operating</b>	<b>6,246,120.28</b>	<b>5,042,687.19</b>
 <b>Operating Capital</b>		
Capital Improvements	670,000.00	394,340.83
<b>Total Operating Capital</b>	<b>670,000.00</b>	<b>394,340.83</b>
 <b>Agency Assistance</b>		
Agency Support Programs	600,000.00	406,655.30
<b>Total Agency Assistance</b>	<b>600,000.00</b>	<b>406,655.30</b>
 <b>Total Expenses</b>	<b>9,228,345.37</b>	<b>7,555,908.36</b>





## El Paso County 911 District

6055 Threadgill Ave. El Paso TX 79924 | (915) 562-3911 | Fax (915) 832-6808

### SWORN STATEMENT

Before me, the undersigned personally appeared and stated:

I, Scott Calderwood, Director of El Paso County 911 District, swear that these Audited Financial Statements of the El Paso County 911 District are a true and correct report of the funds received and spent by the District during the fiscal year beginning October 1, 2020 and ending on September 30, 2021.

Scott Calderwood  
Director  
El Paso County 911 District

Sworn to and subscribed this 21<sup>st</sup> day of January 2022.

Mariza Martinez  
Notary Public in and for the State of Texas  
My commission expires: 5-20-2024





*“Our commitment to live by our shared values is our strategy for success”*

El Paso County 911 District  
6055 Threadgill Ave.  
El Paso, Texas 79924  
915 562 3911  
[info@elpaso911.org](mailto:info@elpaso911.org)

Scott Calderwood  
Director  
915 832 6812  
[scottc@elpaso911.org](mailto:scottc@elpaso911.org)



Legislation Text

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File #: 22-1092, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action that the City Manager be authorized to sign a two year On-Call Professional Services Agreement to perform surveying services on a task-by-task basis by and between the City of El Paso and each of the following three (3) consultants:

1. Brock & Bustillos, Inc.
2. Cobb, Fendley & Associates, Inc.
3. Frank X. Spencer & Associates, Inc.

Each On Call Agreement will be for an amount not to exceed \$300,000.00, and each agreement will include authorization for the City Engineer to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and authorization for the City Engineer to approve Additional Services for an amount not to exceed \$50,000.00 if the identified services are necessary for proper execution of identified project and if the increased amounts are within the appropriate budget identified for a project. In addition, the City Manager is authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of each On-Call Agreement.



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

**AGENDA DATE:** August 30, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Yvette Hernandez, P.E.

**(915) 212-1860**

**DISTRICT(S) AFFECTED:** All

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

**SUBGOAL:** 7.2: Improve competitiveness through infrastructure improvements impacting the quality of

**SUBJECT:**

Discussion and action that the City Manager be authorized to sign a two year On-Call Professional Services Agreement to perform surveying services on a task-by-task basis by and between the City of El Paso and each of the following three (3) consultants:

1. Brock & Bustillos, Inc.
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**BACKGROUND / DISCUSSION:**

The on-call agreement for professional services to perform surveying services assists the Capital Improvement Department as well as user departments to expedite and complete tasks for projects. City Council approved the previous two year on call agreements for surveying services on July 25, 2017, August 20, 2019, and again on November 23, 2021. The capacity remaining in the 2021 agreements is insufficient to support workload for projects in 2023 and beyond.

**PRIOR COUNCIL ACTION:**

July 25, 2017, September 17, 2019 and November 23, 2021 – City Council approved two year on call professional services agreements to perform surveying services on a task-by-task basis.

**AMOUNT AND SOURCE OF FUNDING:**

\$300,000.00/each agreement  
Capital Improvement Plans, and Qol, and Public Safety Bonds

Revised 04/09/2021

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?   X   YES    NO

PRIMARY DEPARTMENT: Capital Improvement Department  
SECONDARY DEPARTMENT:

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

**DEPARTMENT HEAD:**

Assistant Director Capital Improvement *Jerry DeMuro/for*

---

Yvette Hernandez, P.E.  
City Engineer

## RESOLUTION

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

That the City Manager be authorized to sign a two year On-Call Professional Services Agreement to perform surveying services on a task by task basis by and between the by City of El Paso and each of the following three (3) consultants:

1. Brock & Bustillos, Inc.
2. Cobb, Fendley & Associates, Inc.
3. Frank X. Spencer & Associates, Inc.

Each On-Call Agreement will be for an amount not to exceed \$300,000.00, and each agreement will include authorization for the City Engineer to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and authorization for the City Engineer to approve Additional Services for an amount not to exceed \$50,000.00 if the identified services are necessary for proper execution of identified project and if the increased amounts are within the appropriate budget identified for a project. In addition, the City Manager is authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of each On-Call Agreement.

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2022.

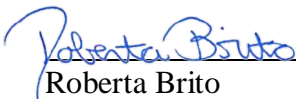
CITY OF EL PASO:

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


ATTEST:

\_\_\_\_\_  
Laura Prine  
City Clerk

APPROVED AS TO FORM:

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

APPROVED AS TO CONTENT:

Assistant Director Capital Improvement  
  
\_\_\_\_\_  
Yvette Hernandez, City Engineer  
Capital Improvement Department

## CITY OF EL PASO A/E SELECTION SCORESHEET

Rater	SOLICITATION #2022-0709R On-Call Surveying								
	AG3 Group, LLC	Brock & Bustillos, Inc.	Cobb, Fendely & Associates	Conde, Inc.	Frank X. Spencer	GRV Integrated	Huitt-Zollars	SLI Engineering	SMA - Souder, Miller & Associates
Rater 1	53	66	66	41	66	52	53	56	58
Rater 2	44	65	68	42	65	59	58	52	51
Rater 3	47	68	66	50	63	59	60	53	49
<b>Total Raters Score</b>	144	199	200	133	194	170	171	161	158
References	10	10	8	7	10	9	7	9	9
<b>OVERALL SCORE</b>	154	209	208	140	204	179	178	170	167

#1	Brock & bustillos	209
#2	Cobb, Fendely	208
#3	Frank X. Spencer	204
#4	GRV	179
#5	Huitt-Zollars	178
#6	SLI Engineering	170
#7	SMA	167
#8	AG3 Group	154
#9	Conde	140

THE STATE OF TEXAS   )  
  )  
COUNTY OF EL PASO   )

ON-CALL  
AGREEMENT FOR  
PROFESSIONAL SERVICES

This Agreement (“**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 2022 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 **BROCK & BUSTILLOS, INC.**, a Domestic For-Profit Corporation, hereinafter referred to as the (“**Consultant**”).

**WHEREAS**, the Owner intends to engage the Consultant to perform professional on-call surveying services on a task order basis through the use of task orders referencing this Agreement, the scope of which is further described in **Attachment “A”**; and

**WHEREAS**, the 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
Attachment “B”	Consultant’s Fee Proposal and Hourly Rates
Attachment “C”	Intentionally Deleted
Attachment “D”	Payment and Deliverable Schedules
Attachment “E”	Insurance Certificate
Attachment “F”	Federal Aviation Administration contract provisions for Airport Improvement Program Projects

**ARTICLE II  
PROJECT**

**2.1** The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform on-call professional services on a Task Order basis. Each individual Task Order will identify the Project (“**Project**”) and the total compensation due to each Project. The Task Order for each Project shall include the Scope of Services described in **Attachment “A”**.

**2.2** For each Project, 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 in those phases of 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 each task order. 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. 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 days 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 **\$300,000.00** for all basic services and reimbursables performed pursuant to this Agreement.

**No services are being requested through this Agreement, nor shall any indebtedness accrue through the mere execution of this Agreement.**

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of the Project and the increased amounts are within the appropriate budget identified for the identified Project.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding **\$50,000.00** must have prior approval by City Council through written amendment to 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 each Project shall be pursuant to the Consultant's fee proposal at the rates which is attached hereto as **Attachment "B"**.

Payments to the Consultant shall be made pursuant to **Attachment “D”**.

### **3.2 INTENTIONALLY DELETED.**

**3.3 CONSULTANT’S INVOICES.** For each Project, the Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to the schedule established in **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 (90) days 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 Project budget, 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 each phase. 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 PROJECT BUDGET.** The Consultant acknowledges that the budget and time for each Project will be identified in each Task Order.

**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 PERIOD OF SERVICE.** The term of this Agreement shall be for a period not to exceed **two (2) years** from the date first shown above. The services called for by each Task Order shall begin upon the issuance of a Notice to Proceed from the City Engineer and shall continue through the completion of the construction of the Project, including any required extensions beyond the contract time for construction of the Project, as may be directed by the Owner.

**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 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.** 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

\$2,000,000.00 General Aggregate

\$2,000,000.00 Products/Completed Operations Aggregate

\$1,000,000.00 Personal and Advertising Injury

**Personal Injury or Death & Property Damage**

\$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.

**General Aggregate**

\$1,000,000.00

\$1,000,000.00 per occurrence

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 ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) on a claim 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 Contract.

**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.

Further, all policies shall provide either in the policy itself and reflected on the certificate of insurance or through an endorsement attached to the policy, that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

**5.2 INDEMNIFICATION.** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless 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 bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. 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.

**5.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS.** Consultant shall procure and maintain insurance as required by and set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Consultant (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant's insurers in settlement or

satisfaction of Owner's Claims under the terms and conditions of Consultant's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's claims shall not exceed \$250,000.00 per person or \$500,000.00 per incident with property damage liability limited to \$100,000.00 per incident.

## **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 consistent with professional skill and care, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within **Attachment "D"**. 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.

The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment “D”**.

## **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 “D”** 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 shall have 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 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, in the Owner’s discretion, 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 inspection and photo copying of selected documents from time to time at reasonable times and places.

**7.6 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

**7.7 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

**7.8 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

**7.9 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.

**7.10 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

**7.11 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner:	The City of El Paso Attn: City Manager P.O. Box 1890 El Paso, Texas 79950-1890
---------------	---

With a Copy to:	The City of El Paso Attn: City Engineer P.O. Box 1890 El Paso, Texas 79950-1890
-----------------	--

To the Consultant:	Brock & Bustillos Inc. Attn: Roman Bustillos, President 417 Executive Center Blvd. El Paso, Texas 79902
--------------------	--

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

**7.12 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.

**7.13 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.

**7.14 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.

(Signatures begin on the following pages)




**WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:**

**CITY OF EL PASO:**


\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

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

**APPROVED AS TO CONTENT:**

Assistant Director Capital Improvement

  
\_\_\_\_\_  
Yvette Hernandez, 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 \_\_\_\_\_, 2022,  
by **Tomás González**, as **City Manager** of the **City of El Paso, Texas**.

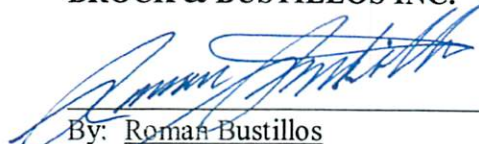
\_\_\_\_\_  
Notary Public, State of Texas

My commission expires:

\_\_\_\_\_

*(Signatures continue on following page)*

CONSULTANT:  
BROCK & BUSTILLOS INC.

  
By: Roman Bustillos  
Title: President

(Acknowledgment)

THE STATE OF TEXAS   §  
                                     §  
COUNTY OF EL PASO   §

This instrument was acknowledged before me on this 11th day of August, 2022,  
by Roman Bustillos, as President of Brock & Bustillos Inc.

My commission expires:

02/10/2023



  
Notary Public, State of Texas

**ATTACHMENT “A”  
SCOPE OF SERVICES**

## **Attachment “A” Scope of Work**

The contracts will be used for miscellaneous assignments on an on-call basis. Services to be included:

- Investigation
- Planning
- Platting
- GIS
- Stakeout of Right-of-way for all utility relocations

Products required to include:

- Right-of-way map
- Boundary survey
- Legal description
- ALTA survey
- Topographic elevations
- Temporary benchmarks
- Metes and bounds
- Installation/certification of City monuments
- Improvement surveys
- Utility easements surveys
- Electronic digital data via an electronic data sharing platform shall be readable by and compatible with the Capital Improvement Department’s AutoCAD platform and shall include, at the minimum, coordinate information and drawings.
- Hard copy which shall include original field books and drawings (specified to scale)
- Standards

All survey work shall meet or exceed the standards of practice set forth by the Texas Board of Professional Land Surveying in the General Rules of Procedures and Practices. More stringent standards may be set by the Capital Improvement Department at the time of assignment of a project.

Types of surveys required, but not limited to:

- Setting of aerial targets with the establishment of Texas State Plane Coordinates, Central Zone
- Boundary including the writing of legal descriptions
- Topographic surveys
- Construction surveys
- Field verification and as-built plans

**ATTACHMENT “B”**  
**CONSULTANT’S FEE PROPOSAL AND HOURLY RATES**

**Brock & Bustillos Inc.**  
 Surveying Rates Effective: August 1, 2022

**Professional**

**Hourly  
Rate  
Schedule**

Senior Survey Manager/R.P.L.S.	\$202.16
Surveyor/R.P.L.S.	\$179.69

**Technical**

GIS Technician	\$114.83
Senior Surveying Technician	\$129.89
Surveying Technician	\$109.83
Senior Surveying CAD Draftsman	\$96.83
Surveying CAD Draftsman	\$82.67
Surveying CAD Draftsman - Intern	\$55.51

**Administrative**

Administrative Assistant	\$69.28
Administrative Clerk	\$57.37

**Field Survey Crews**

One Man Survey Crew (Regular Rate-Party Chief)	\$111.01
Two Man (Regular Rate-Party Chief, Rodman)	\$151.54
Three Man (Regular Rate-Party Chief, Instrumentman, Rodman)	\$206.67
Four Man (Regular Rate-Party Chief, Instrumentman, 2-Rodmen)	\$236.19
Flagger (Regular Rate) *This rate can be added to any of the above crews and is per individual Flagger.	\$46.06

**Special Field Survey Crew Equipment**

Safety - Traffic Control Plan (Typical)	\$1,600.00	Work Zone
Safety - Traffic Control - Setup & Maintenance (Can be Project Specific)	\$565.00	Day
Mileage - Survey 4X4 Vehicles	\$0.92	Mile
Quad All Terrain Runner Usage	\$131.00	Day
Ranger All Terrain Vehicle Usage	\$131.00	Day
*Surveying Supplies (ie, lathes, stakes, flagging, whiskers, nails, rebar, markers, etc, are to be determined per individual task.)		

**Other Direct Costs**

Mileage - Personal Owned Vehicles	\$0.585	Mile
Postage - Letter Size	\$0.600	Each
Copies (8.5 X 11) - Bond (B&W)	\$0.20	Each
Copies (8.5 X 11) - Bond (Color)	\$0.50	Each
Copies (11 X 17) - Bond (B&W)	\$0.60	Each
Copies (11 X 17) - Bond (Color)	\$1.00	Each
Copies (18 X 24) - Bond (B&W)	\$3.50	Each
Copies (18 X 24) - Bond (Color)	\$5.50	Each
Copies (24 X 36) - Bond (B&W)	\$7.00	Each
Copies (24 X 36) - Bond (Color)	\$13.00	Each
Copies (30 X 42) - Bond (B&W)	\$9.00	Each
Copies (30 X 42) - Bond (Color)	\$15.00	Each
Copies (36 X 48) - Bond (B&W)	\$16.00	Each
Copies (36 X 48) - Bond (Color)	\$19.00	Each
Copies (8.5 X 11) - Mylars (B&W)	\$2.00	Each
Copies (11 X 17) - Mylars (B&W)	\$4.00	Each
Copies (18 X 24) - Mylars (B&W)	\$6.50	Each
Copies (24 X 36) - Mylars (B&W)	\$11.00	Each
Copies (30 X 42) - Mylars (B&W)	\$15.00	Each
Copies (36 X 48) - Mylars (B&W)	\$15.00	Each
Deliveries	\$40.00	Each

**ATTACHMENT “C”  
INTENTIONALLY DELETED**

**ATTACHMENT “D”  
PAYMENT AND DELIVERABLE SCHEDULES**

**PAYMENT SCHEDULE**

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

**Fixed fee Payment to Consultant**

<b>Report Phase</b>	<b>To be determined by Task Order</b>
<b>Preliminary Design Phase</b>	<b>To be determined by Task Order</b>
<b>Pre-Final Design Phase</b>	<b>To be determined by Task Order</b>
<b>Final Design Phase</b>	<b>To be determined by Task Order</b>
<b>Bidding Phase</b>	<b>To be determined by Task Order</b>
<b>Construction Phase</b>	<b>To be determined by Task Order</b>

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant’s proposal found in **Attachment “B”**. The time shown in **Attachment “B”** is an estimate.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant’s detailed Invoice and a Consulting 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/Consultant 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 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year. Consultant’s invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> of any given year, to coincide with 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 City. 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.



**ATTACHMENT “D”**  
**PAYMENT AND DELIVERABLE SCHEDULES**

**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).

**DELIVERABLE SCHEDULE**

To be determined by Task Order.

**ATTACHMENT “E”**  
**Insurance**

ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/18/2022

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 any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>USI Southwest</b> <b>9811 Katy Freeway, Suite 500</b> <b>Houston, TX 77024</b> <b>713 490-4600</b>	<b>CONTACT NAME:</b> <b>Stephanie Anguiano</b> <b>PHONE (A/C, No, Ext):</b> <b>713 490-4600</b> <b>FAX (A/C, No):</b> <b>713-490-4700</b> <b>E-MAIL ADDRESS:</b> <b>stephanie.anguiano@usi.com</b>														
<b>INSURED</b> <b>Brock &amp; Bustillos, Inc.</b> <b>417 Executive Center Blvd.</b> <b>El Paso, TX 79902</b>	<table border="1"> <thead> <tr> <th data-bbox="816 426 1433 447">INSURER(S) AFFORDING COVERAGE</th> <th data-bbox="1433 426 1572 447">NAIC #</th> </tr> </thead> <tbody> <tr> <td data-bbox="816 457 1433 478"><b>INSURER A : Valley Forge Insurance Company</b></td> <td data-bbox="1433 457 1572 478"><b>20508</b></td> </tr> <tr> <td data-bbox="816 489 1433 510"><b>INSURER B : Continental Casualty Company</b></td> <td data-bbox="1433 489 1572 510"><b>20443</b></td> </tr> <tr> <td data-bbox="816 520 1433 541"><b>INSURER C : Berkley Insurance Company</b></td> <td data-bbox="1433 520 1572 541"><b>32603</b></td> </tr> <tr> <td data-bbox="816 552 1433 573"><b>INSURER D : Depositors Insurance Company</b></td> <td data-bbox="1433 552 1572 573"><b>42587</b></td> </tr> <tr> <td data-bbox="816 583 1433 604"><b>INSURER E :</b></td> <td data-bbox="1433 583 1572 604"></td> </tr> <tr> <td data-bbox="816 615 1433 634"><b>INSURER F :</b></td> <td data-bbox="1433 615 1572 634"></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	<b>INSURER A : Valley Forge Insurance Company</b>	<b>20508</b>	<b>INSURER B : Continental Casualty Company</b>	<b>20443</b>	<b>INSURER C : Berkley Insurance Company</b>	<b>32603</b>	<b>INSURER D : Depositors Insurance Company</b>	<b>42587</b>	<b>INSURER E :</b>		<b>INSURER F :</b>	
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<b>INSURER E :</b>															
<b>INSURER F :</b>															

## 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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			<b>B4031426881</b>	<b>11/01/2021</b>	<b>11/01/2022</b>	EACH OCCURRENCE <b>\$2,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) <b>\$1,000,000</b> MED EXP (Any one person) <b>\$10,000</b> PERSONAL & ADV INJURY <b>\$2,000,000</b> GENERAL AGGREGATE <b>\$4,000,000</b> PRODUCTS - COMP/OP AGG <b>\$4,000,000</b> \$
<b>D</b>	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			<b>ACPBAPD7205223443</b>	<b>11/01/2021</b>	<b>11/01/2022</b>	COMBINED SINGLE LIMIT (Ea accident) <b>\$1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
<b>B</b>	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION <b>\$10000</b>			<b>B4031427285</b>	<b>11/01/2021</b>	<b>11/01/2022</b>	EACH OCCURRENCE <b>\$5,000,000</b> AGGREGATE <b>\$5,000,000</b> \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		<b>N / A</b>				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
<b>C</b>	<b>Professional Liab</b> <b>Claims Made &amp; Reported Pol</b>			<b>AEC904882904</b> <b>Retro:01/01/85</b>	<b>11/01/2021</b>	<b>11/01/2022</b>	<b>\$2,000,000 per claim</b> <b>\$2,000,000 annl aggr.</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability And Auto Liability policy(s) includes an automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder, only when there is a written contract that requires such status, and only with regard to work performed on behalf of the named insured. The General Liability and Auto Liability policy(s) provide a Blanket Waiver of Subrogation when required by written contract, except as prohibited by law.  
(See Attached Descriptions)

## CERTIFICATE HOLDER

## CANCELLATION

<b>City of El Paso</b> <b>218 N. Campbell, 2nd Floor</b> <b>El Paso, TX 79901</b>	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 
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## DESCRIPTIONS (Continued from Page 1)

RE: Project - Solicitation #2022-0709R On-Call Surveying Services.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/15/2022

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 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).

<b>PRODUCER</b> CD Lee Britton Insurance Agency LLC 2244 Trawood # 208  El Paso TX 79935		<b>CONTACT NAME:</b> Lisa Daniels <b>PHONE (A/C, No, Ext):</b> (915)595-3393 <b>FAX (A/C, No):</b> (915)594-0267 <b>E-MAIL ADDRESS:</b> lisa@cdleebritton.com	
<b>INSURED</b> Brock & Bustillos, Inc. 417 Executive Center Blvd.  El Paso TX 79902		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Technology Insurance Company Inc <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	

**COVERAGES****CERTIFICATE NUMBER:**21/22 WC Only**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	
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE	\$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
							MED EXP (Any one person)	\$
							PERSONAL & ADV INJURY	\$
							GENERAL AGGREGATE	\$
							PRODUCTS - COMP/OP AGG	\$
								\$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
<b>A</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<b>Y/N</b> <input type="checkbox"/> N/A		TWC4026275	11/1/2021	11/1/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Solicitation #2202-0709R On-Call Surveying Services

**CERTIFICATE HOLDER****CANCELLATION**

City of El Paso 218 N.Campbell St. 2nd Floor 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  Herb Phifer/LD

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## **ATTACHMENT “F”**

## **ATTACHMENT “F”**

### **FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS**

**In this Attachment “F”, the term “Contractor” shall refer to the “Consultant”, and the term “Airport Sponsor” shall refer to the “City”.**

**If there are any conflicts between the terms and conditions of Attachment “F” and Article VI of the Agreement, the terms and conditions of Attachment “F” will prevail.**

#### **A. GENERAL REQUIREMENT FOR CONTRACT**

1. The contractor (including all subcontractors) are required to insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts;
2. The contractor (or subcontractor) is required to incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
3. The contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider; and
4. The contractor (or subcontractor) shall not modify the provisions.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the contract.

#### **B. FAILURE TO COMPLY**

Failure to comply with the terms of these contract provisions may be sufficient grounds to:

1. Withhold progress payments or final payment,
2. Terminate the contract,
3. Seek suspension/debarment, or
4. Any other action determined to be appropriate by the Airport Sponsor or the FAA.

#### **C. CONTRACT PROVISIONS**

##### **1. ACCESS TO RECORDS AND REPORTS (all AIP-funded projects)**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized

representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after the final payment is made and all pending matters are closed.

2. **BREACH OF CONTRACT TERMS** (all contracts that exceed the simplified acquisition threshold as fixed at 41 USC 403(11). This threshold is presently set at \$100,000.)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. **BUY AMERICAN PREFERENCES** (all AIP-funded projects, if this professional services agreement includes any manufactured product as a deliverable.)

### **BUY AMERICAN CERTIFICATION**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

#### **Type of Certification is based on Type of Project:**

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.



\*\*\*\*\*

### **Certificate of Buy American Compliance for Total Facility**

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
- a. Only installing steel and manufactured products produced in the United States; or
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
  - 2. To faithfully comply with providing US domestic products
  - 3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
  - 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.

4. To furnish US domestic product for any waiver request that the FAA rejects.
5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

**Type 3 Waiver** - The cost of components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the “facility”. The required documentation for a type 3 waiver is:

- a. Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c. Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

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Date

---

Signature

---

Company Name

---

Title

\* \* \* \* \*

### **Certificate of Buy American Compliance for Manufactured Products**

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- a. Only installing steel and manufactured products produced in the United States, or;
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
  - 2. To faithfully comply with providing US domestic product
  - 3. To furnish US domestic product for any waiver request that the FAA rejects
  - 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.

3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**Type 3 Waiver** - The cost of the item components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the “item”. The required documentation for a type 3 waiver is:

- a. Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c. Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

---

Date

---

Signature

---

Company Name

---

Title

4. **GENERAL CIVIL RIGHTS PROVISIONS (all contracts)**

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- a. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

5. **CIVIL RIGHTS-TITLE IV COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS (all AIP funded projects)**

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will 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. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
  4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
  5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
    - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
    - b. Cancelling, terminating, or suspending a contract, in whole or in part.
  6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontractor or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.
6. **CLEAN AIR AND WATER POLLUTION CONTROL** (all contracts that exceed \$100,000)

Contractors and subcontractors agree:

1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

**7. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS (all contracts that exceed \$100,000)**

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

8. **CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)** (all contracts that exceed \$25,000)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

9. **DISADVANTAGED BUSINESS ENTERPRISES** (all AIP-funded projects)

**Contract Assurance (49 CFR § 26.13)** - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (49 CFR §26.29)**- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame



may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

**10. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE) (all contracts)**

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

**11. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES (all AIP-funded projects)**

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to

a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (all contracts)**

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

**13. RIGHTS TO INVENTIONS (all AIP-funded projects)**

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

**14. TERMINATION OF CONTRACT (contracts that exceed \$10,000)**

1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed

to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**15. TRADE RESTRICTION CLAUSE (all AIP-funded projects)**

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may

direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

**16. TEXTING WHEN DRIVING (all contracts)**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.

THE STATE OF TEXAS   )  
  )  
COUNTY OF EL PASO   )

ON-CALL  
AGREEMENT FOR  
PROFESSIONAL SERVICES

This Agreement (“**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 2022 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 **COBB, FENDLEY & ASSOCIATES, INC.**, a Domestic For-Profit Corporation, hereinafter referred to as the (“**Consultant**”).

**WHEREAS**, the Owner intends to engage the Consultant to perform professional on-call surveying services on a task order basis through the use of task orders referencing this Agreement, the scope of which is further described in **Attachment “A”**; and

**WHEREAS**, the 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
Attachment “B”	Consultant’s Fee Proposal and Hourly Rates
Attachment “C”	Intentionally Deleted
Attachment “D”	Payment and Deliverable Schedules
Attachment “E”	Insurance Certificate
Attachment “F”	Federal Aviation Administration contract provisions for Airport Improvement Program Projects

**ARTICLE II  
PROJECT**

**2.1** The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform on-call professional services on a Task Order basis. Each individual Task Order will identify the Project (“**Project**”) and the total compensation due to each Project. The Task Order for each Project shall include the Scope of Services described in **Attachment “A”**.

**2.2** For each Project, 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 in those phases of 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 each task order. 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. 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 days 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 **\$300,000.00** for all basic services and reimbursables performed pursuant to this Agreement.

**No services are being requested through this Agreement, nor shall any indebtedness accrue through the mere execution of this Agreement.**

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of the Project and the increased amounts are within the appropriate budget identified for the identified Project.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding **\$50,000.00** must have prior approval by City Council through written amendment to 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 each Project shall be pursuant to the Consultant's fee proposal at the rates which is attached hereto as **Attachment "B"**.

Payments to the Consultant shall be made pursuant to **Attachment "D"**.

### **3.2 INTENTIONALLY DELETED.**

**3.3 CONSULTANT'S INVOICES.** For each Project, the Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to the schedule established in **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 (90) days 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 Project budget, 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 each phase. 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 PROJECT BUDGET.** The Consultant acknowledges that the budget and time for each Project will be identified in each Task Order.

**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 PERIOD OF SERVICE.** The term of this Agreement shall be for a period not to exceed **two (2) years** from the date first shown above. The services called for by each Task Order shall begin upon the issuance of a Notice to Proceed from the City Engineer and shall continue through the completion of the construction of the Project, including any required extensions beyond the contract time for construction of the Project, as may be directed by the Owner.

**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 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.** 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  
\$2,000,000.00 General Aggregate  
\$2,000,000.00 Products/Completed Operations Aggregate  
\$1,000,000.00 Personal and Advertising Injury

**Personal Injury or Death & Property Damage**

\$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.

**General Aggregate**

\$1,000,000.00  
\$1,000,000.00 per occurrence

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 ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) 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 Contract.

**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.

Further, all policies shall provide either in the policy itself and reflected on the certificate of insurance or through an endorsement attached to the policy, that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

**5.2 INDEMNIFICATION.** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless 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 bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. 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.

**5.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS.** Consultant shall procure and maintain insurance as required by and set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence,

professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Consultant (hereafter “Owner’s Claims”), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant’s insurers in settlement or satisfaction of Owner’s Claims under the terms and conditions of Consultant’s insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner’s Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner’s claims shall not exceed \$250,000.00 per person or \$500,000.00 per incident with property damage liability limited to \$100,000.00 per incident.

## **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 consistent with professional skill

and care, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within **Attachment “D”**. 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. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment “D”**.

## **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 “D”** 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 shall have 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 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, in the Owner’s discretion, 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 inspection and photo copying of selected documents from time to time at reasonable times and places.

**7.6 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

**7.7 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

**7.8 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

**7.9 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.

**7.10 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

**7.11 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner:	The City of El Paso Attn: City Manager P.O. Box 1890 El Paso, Texas 79950-1890
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With a Copy to:	The City of El Paso Attn: City Engineer P.O. Box 1890 El Paso, Texas 79950-1890
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To the Consultant:	Cobb, Fendley & Associates, Inc. Attn: Sean Wolfe, Principal 11427 Rojas Drive, Suite B El Paso, Texas 79936
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Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

**7.12 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.

**7.13 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.

**7.14 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 the following pages)



**CITY OF EL PASO:**

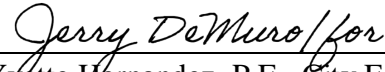
\_\_\_\_\_  
Tomás González  
City Manager

APPROVED AS TO FORM:

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

APPROVED AS TO CONTENT:

Assistant Director Capital Improvement

  
\_\_\_\_\_  
Yvette Hernandez, 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 \_\_\_\_\_, 2022,  
by **Tomás González**, as **City Manager** of the **City of El Paso, Texas**.

\_\_\_\_\_  
Notary Public, State of Texas

My commission expires:

\_\_\_\_\_

*(Signatures continue on following page)*

CONSULTANT:  
**COBB, FENDLEY & ASSOCIATES,  
INC.**

Sean Wolfe

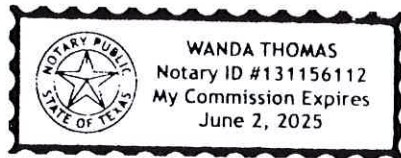
By: Sean Wolfe

Title: Principal

**(Acknowledgment)**

THE STATE OF TEXAS   §  
                                      §  
COUNTY OF EL PASO   §

This instrument was acknowledged before me on this 12 day of August, 2022,  
by Sean Wolfe, as Principal of Cobb, Fendley & Associates, Inc.



Wanda Thomas  
Notary Public, State of Texas

My commission expires:

June 2, 2025

**ATTACHMENT “A”  
SCOPE OF SERVICES**

## **Attachment “A” Scope of Work**

The contracts will be used for miscellaneous assignments on an on-call basis. Services to be included:

- Investigation
- Planning
- Platting
- GIS
- Stakeout of Right-of-way for all utility relocations

Products required to include:

- Right-of-way map
- Boundary survey
- Legal description
- ALTA survey
- Topographic elevations
- Temporary benchmarks
- Metes and bounds
- Installation/certification of City monuments
- Improvement surveys
- Utility easements surveys
- Electronic digital data via an electronic data sharing platform shall be readable by and compatible with the Capital Improvement Department’s AutoCAD platform and shall include, at the minimum, coordinate information and drawings.
- Hard copy which shall include original field books and drawings (specified to scale)
- Standards

All survey work shall meet or exceed the standards of practice set forth by the Texas Board of Professional Land Surveying in the General Rules of Procedures and Practices. More stringent standards may be set by the Capital Improvement Department at the time of assignment of a project.

Types of surveys required, but not limited to:

- Setting of aerial targets with the establishment of Texas State Plane Coordinates, Central Zone
- Boundary including the writing of legal descriptions
- Topographic surveys
- Construction surveys
- Field verification and as-built plans

**ATTACHMENT “B”**  
**CONSULTANT’S FEE PROPOSAL AND HOURLY RATES**

2022 Rate Schedule for On-call Surveying – City of El Paso

Project Manager III.....	\$254.00/HR
Project Manager II .....	\$238.00/HR
Project Manager I .....	\$184.00/HR
Sr. Project Coordinator.....	\$150.00/HR
Project Coordinator.....	\$103.00/HR
Senior Technician III (GIS, Telecom, Utility, CAD, Field).....	\$179.00/HR
Senior Technician II (GIS, Telecom, Utility, CAD, Field).....	\$156.00/HR
Senior Technician I (GIS, Telecom, Utility, CAD, Field).....	\$135.00/HR
Technician III (GIS, Telecom, Utility, CAD, Field).....	\$108.00/HR
Technician II (GIS, Telecom, Utility, CAD, Field).....	\$88.00/HR
Technician I (GIS, Telecom, Utility, CAD, Field).....	\$65.00/HR
Licensed State Land Surveyor .....	\$254.00/HR
Senior Registered Professional Land Surveyor.....	\$227.00/HR
Registered Professional Land Surveyor .....	\$184.00/HR
Project Surveyor. ....	\$163.00/HR
Certified Photogrammetrist. ....	\$215.00/HR
4 Person Survey Crew .....	\$206.00/HR
3 Person Survey Crew .....	\$184.00/HR
2 Person Survey Crew .....	\$156.00/HR
1 Person Survey Crew .....	\$113.00/HR
2 Person Hy-Drone Crew .....	\$368.00/HR
2 Person UAV Drone Crew .....	\$254.00/HR
Sr. Right-of-Way Agent III or ROW Project Manager III.....	\$263.00/HR
Sr. Right-of-Way Agent II or ROW Project Manager II.....	\$210.00/HR
Sr. Right-of-Way Agent I or ROW Project Manager I.....	\$189.00/HR
Right-of-Way Agent III or ROW Attorney.....	\$168.00/HR
Right-of-Way Agent II.....	\$147.00/HR
Right-of-Way Agent I.....	\$116.00/HR
Right-of-Way Technician.....	\$105.00/HR
Administrative .....	\$113.00/HR
Clerical.....	\$86.00/HR
Field Data Device .....	\$40.00/HR/unit

**SUBSURFACE UTILITY ENGINEERING**

Two-Man Designating Crew (4-Hour Minimum) .....	\$184/HR
One-Man Designating Crew (4-Hour Minimum) .....	\$119/HR
Vacuum Excavation Truck with 2 Technicians (Vac 6000) (4-Hour Minimum).....	\$341/HR
Vacuum Excavation Truck with 2 Technicians (Vac 3000 & 4000) (4-Hour Minimum).....	\$319/HR
Ground Penetrating Radar with 1 Technician (4-Hour Minimum) .....	\$281/HR
Traffic Control Officer.....	@ Cost + 10%

Traffic Control (Lane Closures, etc.) ..... To Be Negotiated  
 Permits (Local, State, etc.).....@ Cost + 10%  
 Designation, Location & Traffic Control Vehicles..... \$6.50/Mile

### **REIMBURSABLE EXPENSES**

Consultant or Specialty Contractor (Outside Firm) .....@ Cost + 10%  
 Courier, Special Equipment Rental .....@ Cost + 10%  
 Reasonable Out of Town Travel Expenses (Air, Hotel, Rental, etc.) .....@ Cost  
 Mileage (Standard Car or Truck)..... 80% of the current IRS rate  
 Per Diem for Out of Town Travel (Per Day/Person) ..... As per Policy & Procedure OFS-112  
 Title Plant Charges .....@ Cost + 10%  
 Other Misc. Expenses Related to the Project.....@ Cost + 10%

#### **In-House Reproduction:**

- Copies (Up to 11" x 17").....\$0.15/Each
- Color Prints (Up to 11" x 17") .....\$1.50/Each
- Color Prints (Larger than 11" x 17") .....\$3.00/Sq. Ft.
- Bluelines (All Sizes) .....\$1.00/Each
- Bond Prints (All Sizes) .....\$2.00/Each
- Mylar Prints .....\$12.00/Each
- Vellum Prints .....\$9.00/Each

**ATTACHMENT “C”  
INTENTIONALLY DELETED**



**ATTACHMENT “D”  
PAYMENT AND DELIVERABLE SCHEDULES**

**PAYMENT SCHEDULE**

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

**Fixed fee Payment to Consultant**

<b>Report Phase</b>	<b>To be determined by Task Order</b>
<b>Preliminary Design Phase</b>	<b>To be determined by Task Order</b>
<b>Pre-Final Design Phase</b>	<b>To be determined by Task Order</b>
<b>Final Design Phase</b>	<b>To be determined by Task Order</b>
<b>Bidding Phase</b>	<b>To be determined by Task Order</b>
<b>Construction Phase</b>	<b>To be determined by Task Order</b>

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant’s proposal found in **Attachment “B”**. The time shown in **Attachment “B”** is an estimate.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant’s detailed Invoice and a Consulting 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/Consultant 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 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year. Consultant’s invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> of any given year, to coincide with 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 City. 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.

**ATTACHMENT “D”**  
**PAYMENT AND DELIVERABLE SCHEDULES**

**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).

**DELIVERABLE SCHEDULE**

To be determined by Task Order.

**ATTACHMENT “E”**  
**Insurance**

**ACORD**<sup>TM</sup>**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

7/19/2022

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 any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>USI Southwest</b> <b>9811 Katy Freeway, Suite 500</b> <b>Houston, TX 77024</b> <b>713 490-4600</b>	<b>CONTACT NAME:</b> Stephanie Anguiano/Michelle W. <b>PHONE (A/C, No, Ext):</b> 713 490-4600 <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b> stephanie.anguiano@usi.com														
<b>INSURED</b> <b>Cobb, Fendley &amp; Associates, Inc.</b> <b>13430 Northwest Frwy, Suite 1100</b> <b>Houston, TX 77040</b>	<table border="1"> <thead> <tr> <th data-bbox="816 426 1433 453">INSURER(S) AFFORDING COVERAGE</th> <th data-bbox="1433 426 1572 453">NAIC #</th> </tr> </thead> <tbody> <tr> <td data-bbox="816 453 1433 485">INSURER A : Phoenix Insurance Company</td> <td data-bbox="1433 453 1572 485">25623</td> </tr> <tr> <td data-bbox="816 485 1433 516">INSURER B : Travelers Property Cas. Co. of America</td> <td data-bbox="1433 485 1572 516">25674</td> </tr> <tr> <td data-bbox="816 516 1433 548">INSURER C : Farmington Casualty Company</td> <td data-bbox="1433 516 1572 548">41483</td> </tr> <tr> <td data-bbox="816 548 1433 579">INSURER D : Berkley Insurance Company</td> <td data-bbox="1433 548 1572 579">32603</td> </tr> <tr> <td data-bbox="816 579 1433 611">INSURER E : Travelers Indemnity Company</td> <td data-bbox="1433 579 1572 611">25658</td> </tr> <tr> <td data-bbox="816 611 1433 634">INSURER F :</td> <td data-bbox="1433 611 1572 634"></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Phoenix Insurance Company	25623	INSURER B : Travelers Property Cas. Co. of America	25674	INSURER C : Farmington Casualty Company	41483	INSURER D : Berkley Insurance Company	32603	INSURER E : Travelers Indemnity Company	25658	INSURER F :	
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**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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			<b>Y6306T020324PHX22</b>	<b>07/10/2022</b>	<b>07/10/2023</b>	EACH OCCURRENCE <b>\$1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) <b>\$1,000,000</b> MED EXP (Any one person) <b>\$5,000</b> PERSONAL & ADV INJURY <b>\$1,000,000</b> GENERAL AGGREGATE <b>\$2,000,000</b> PRODUCTS - COMP/OP AGG <b>\$2,000,000</b> \$
<b>E</b>	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			<b>8105T9261002243G</b>	<b>07/10/2022</b>	<b>07/10/2023</b>	COMBINED SINGLE LIMIT (Ea accident) <b>\$1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
<b>B</b>	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> RETENTION <b>\$10000</b>			<b>CUP4S01891422NF</b>	<b>07/10/2022</b>	<b>07/10/2023</b>	EACH OCCURRENCE <b>\$12,000,000</b> AGGREGATE <b>\$12,000,000</b> \$
<b>C</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	<b>UB6T0405192243G</b>	<b>07/10/2022</b>	<b>07/10/2023</b>	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT <b>\$1,000,000</b> E.L. DISEASE - EA EMPLOYEE <b>\$1,000,000</b> E.L. DISEASE - POLICY LIMIT <b>\$1,000,000</b>
<b>D</b>	<b>Professional Liability</b>			<b>AEC905644007</b>	<b>07/10/2022</b>	<b>07/10/2023</b>	<b>\$5,000,000 per claim</b> <b>\$5,000,000 annl aggr.</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Automobile Liability policies include an automatic Additional Insured endorsement that provides Additional Insured status to the Certificate holder, only when there is a written contract or written agreement between the named insured and the certificate holder that requires such status, and only with regard to work performed on behalf of the named insured (GL: CGD3790219 ongoing and completed operations, CG D2460419; AL: CA T3530817).  
(See Attached Descriptions)

**CERTIFICATE HOLDER****CANCELLATION**

<b>City of El Paso</b> <b>Attn: Jessica Torres</b> <b>218 North Campbell, Second Floor</b> <b>El Paso, TX 79901</b>	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 
--	---

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## DESCRIPTIONS (Continued from Page 1)

The General, Automobile, and Umbrella Liability policies contain a special endorsement with "Primary and Noncontributory" wording (GL: CGT1000219; AL: CAT4740817; UL: EU0001 7/16).

The General Liability, Automobile, Workers Compensation, and Professional Liability policies provide a Blanket Waiver of Subrogation when required by written contract (GL: CGD3790219; AL: CA73530817; WC: WC000313; BDP0417001).

The General Liability, Automobile, Workers Compensation, Umbrella Liability, and Professional Liability policies include an endorsement providing that 30 days notice of cancellation for reasons other than non-payment of premium and 10 days notice of cancellation for nonpayment of premium will be given to the Certificate Holder by the Insurance Carrier.

The Umbrella Liability policy contains Excess Follows Form (EU0001 7/16). The Umbrella policy sits over the General, Auto, and Employers Liability coverages.

RE: Solicitation #2022-0709R On-Call Surveying.

The General Liability and Automobile Liability policies include an automatic Additional Insured endorsement that provides Additional Insured status to the The City of El Paso and The City of El Paso City Council, only when there is a written contract that requires such status, and only with regard to work performed on behalf of the named insured.

ACORD™

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E	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			8105T9261002243G	07/10/2022	07/10/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
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D	<b>Professional Liability</b>			AEC905644007	07/10/2022	07/10/2023	\$5,000,000 per claim \$5,000,000 annl aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

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(See Attached Descriptions)

## CERTIFICATE HOLDER

## CANCELLATION

<b>City of El Paso</b> <b>Attn: Jessica Torres</b> <b>218 North Campbell, Second Floor</b> <b>El Paso, TX 79901</b>	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 
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RE: Solicitation #2022-0709R On-Call Surveying.

The General Liability and Automobile Liability policies include an automatic Additional Insured endorsement that provides Additional Insured status to the The City of El Paso and The City of El Paso City Council, only when there is a written contract that requires such status, and only with regard to work performed on behalf of the named insured.

## **ATTACHMENT “F”**



## **ATTACHMENT “F”**

### **FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS**

**In this Attachment “F”, the term “Contractor” shall refer to the “Consultant”, and the term “Airport Sponsor” shall refer to the “City”.**

**If there are any conflicts between the terms and conditions of Attachment “F” and Article VI of the Agreement, the terms and conditions of Attachment “F” will prevail.**

#### **A. GENERAL REQUIREMENT FOR CONTRACT**

1. The contractor (including all subcontractors) are required to insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts;
2. The contractor (or subcontractor) is required to incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
3. The contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider; and
4. The contractor (or subcontractor) shall not modify the provisions.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the contract.

#### **B. FAILURE TO COMPLY**

Failure to comply with the terms of these contract provisions may be sufficient grounds to:

1. Withhold progress payments or final payment,
2. Terminate the contract,
3. Seek suspension/debarment, or
4. Any other action determined to be appropriate by the Airport Sponsor or the FAA.

#### **C. CONTRACT PROVISIONS**

##### **1. ACCESS TO RECORDS AND REPORTS (all AIP-funded projects)**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized

representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after the final payment is made and all pending matters are closed.

2. **BREACH OF CONTRACT TERMS** (all contracts that exceed the simplified acquisition threshold as fixed at 41 USC 403(11). This threshold is presently set at \$100,000.)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. **BUY AMERICAN PREFERENCES** (all AIP-funded projects, if this professional services agreement includes any manufactured product as a deliverable.)

### **BUY AMERICAN CERTIFICATION**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

#### **Type of Certification is based on Type of Project:**

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

\*\*\*\*\*

### **Certificate of Buy American Compliance for Total Facility**

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
- a. Only installing steel and manufactured products produced in the United States; or
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
  - 2. To faithfully comply with providing US domestic products
  - 3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
  - 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.

4. To furnish US domestic product for any waiver request that the FAA rejects.
5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

**Type 3 Waiver** - The cost of components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the “facility”. The required documentation for a type 3 waiver is:

- a. Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c. Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

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Date

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Signature

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Company Name

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Title

\* \* \* \* \*

### **Certificate of Buy American Compliance for Manufactured Products**

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- a. Only installing steel and manufactured products produced in the United States, or;
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
  - 2. To faithfully comply with providing US domestic product
  - 3. To furnish US domestic product for any waiver request that the FAA rejects
  - 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.

3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**Type 3 Waiver** - The cost of the item components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the “item”. The required documentation for a type 3 waiver is:

- a. Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c. Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

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Date

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Signature

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Company Name

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Title

4. **GENERAL CIVIL RIGHTS PROVISIONS (all contracts)**

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- a. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

5. **CIVIL RIGHTS-TITLE IV COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS (all AIP funded projects)**

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will 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. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
  4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
  5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
    - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
    - b. Cancelling, terminating, or suspending a contract, in whole or in part.
  6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontractor or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.
6. **CLEAN AIR AND WATER POLLUTION CONTROL** (all contracts that exceed \$100,000)

Contractors and subcontractors agree:



1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

**7. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS (all contracts that exceed \$100,000)**

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

8. **CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)** (all contracts that exceed \$25,000)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

9. **DISADVANTAGED BUSINESS ENTERPRISES** (all AIP-funded projects)

**Contract Assurance (49 CFR § 26.13)** - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (49 CFR §26.29)**- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame

may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

**10. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE) (all contracts)**

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

**11. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES (all AIP-funded projects)**

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to

a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (all contracts)**

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

**13. RIGHTS TO INVENTIONS (all AIP-funded projects)**

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

**14. TERMINATION OF CONTRACT (contracts that exceed \$10,000)**

1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed

to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**15. TRADE RESTRICTION CLAUSE (all AIP-funded projects)**

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may

direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

**16. TEXTING WHEN DRIVING (all contracts)**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.

THE STATE OF TEXAS   )  
  )  
COUNTY OF EL PASO   )

ON-CALL  
AGREEMENT FOR  
PROFESSIONAL SERVICES

This Agreement (“**Agreement**”) is made this \_\_\_\_ **day of** \_\_\_\_\_, **2022** 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 **FRANK X. SPENCER & ASSOCIATES INC.**, a Domestic For-Profit Corporation, hereinafter referred to as the (“**Consultant**”).

**WHEREAS**, the Owner intends to engage the Consultant to perform professional on-call surveying services on a task order basis through the use of task orders referencing this Agreement, the scope of which is further described in **Attachment “A”**; and

**WHEREAS**, the 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
Attachment “B”	Consultant’s Fee Proposal and Hourly Rates
Attachment “C”	Intentionally Deleted
Attachment “D”	Payment and Deliverable Schedules
Attachment “E”	Insurance Certificate
Attachment “F”	Federal Aviation Administration contract provisions for Airport Improvement Program Projects

**ARTICLE II**  
**PROJECT**

**2.1** The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform on-call professional services on a Task Order basis. Each individual Task Order will identify the Project (“**Project**”) and the total compensation due to each Project. The Task Order for each Project shall include the Scope of Services described in **Attachment “A”**.

**2.2** For each Project, 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 in those phases of 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 each task order. 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. 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 days 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 **\$300,000.00** for all basic services and reimbursables performed pursuant to this Agreement.

**No services are being requested through this Agreement, nor shall any indebtedness accrue through the mere execution of this Agreement.**

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of the Project and the increased amounts are within the appropriate budget identified for the identified Project.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding **\$50,000.00** must have prior approval by City Council through written amendment to 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 each Project shall be pursuant to the Consultant's fee proposal at the rates which is attached hereto as **Attachment "B"**.

Payments to the Consultant shall be made pursuant to **Attachment "D"**.

### **3.2 INTENTIONALLY DELETED.**

**3.3 CONSULTANT'S INVOICES.** For each Project, the Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to the schedule established in **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 (90) days 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 Project budget, 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 each phase. 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 PROJECT BUDGET.** The Consultant acknowledges that the budget and time for each Project will be identified in each Task Order.

**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 PERIOD OF SERVICE.** The term of this Agreement shall be for a period not to exceed **two (2) years** from the date first shown above. The services called for by each Task Order shall begin upon the issuance of a Notice to Proceed from the City Engineer and shall continue through the completion of the construction of the Project, including any required extensions beyond the contract time for construction of the Project, as may be directed by the Owner.

**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 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.** 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  
\$2,000,000.00 General Aggregate  
\$2,000,000.00 Products/Completed Operations Aggregate  
\$1,000,000.00 Personal and Advertising Injury

**Personal Injury or Death & Property Damage**

\$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.

**General Aggregate**

\$1,000,000.00  
\$1,000,000.00 per occurrence

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 ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) 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 Contract.

**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.

Further, all policies shall provide either in the policy itself and reflected on the certificate of insurance or through an endorsement attached to the policy, that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

**5.2 INDEMNIFICATION.** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless 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 bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. 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.

**5.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS.** Consultant shall procure and maintain insurance as required by and set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence,

professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Consultant (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Consultant's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's claims shall not exceed \$250,000.00 per person or \$500,000.00 per incident with property damage liability limited to \$100,000.00 per incident.

## **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 consistent with professional skill

and care, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within **Attachment “D”**. 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. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment “D”**.

## **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 “D”** 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 shall have 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 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, in the Owner’s discretion, 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 inspection and photo copying of selected documents from time to time at reasonable times and places.

**7.6 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

**7.7 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

**7.8 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

**7.9 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.

**7.10 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

**7.11 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner:	The City of El Paso Attn: City Manager P.O. Box 1890 El Paso, Texas 79950-1890
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With a Copy to:	The City of El Paso Attn: City Engineer P.O. Box 1890 El Paso, Texas 79950-1890
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To the Consultant:	Frank X. Spencer and Associates, Inc. Attn: Frank X. Spencer, Senior Vice President 1130 Montana Ave. El Paso, Texas 79902
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Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

**7.12 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.

**7.13 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.

**7.14 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.


(Signatures begin on the following pages)

**WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:**

**CITY OF EL PASO:**


\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

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

**APPROVED AS TO CONTENT:**

Assistant Director Capital Improvement

  
\_\_\_\_\_  
Yvette Hernandez, 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 \_\_\_\_\_, 2022,  
by **Tomás González**, as **City Manager** of the **City of El Paso, Texas**.

\_\_\_\_\_  
Notary Public, State of Texas

My commission expires:

\_\_\_\_\_

*(Signatures continue on following page)*

CONSULTANT:  
FRANK X. SPENCER AND ASSOCIATES,  
INC.

  
By: Frank X. Spencer  
Title: Senior Vice President

(Acknowledgment)

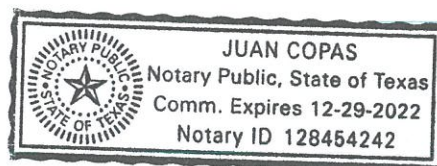
THE STATE OF TEXAS §  
§  
COUNTY OF EL PASO §

This instrument was acknowledged before me on this 15 day of August, 2022,  
by Frank X. Spencer, as Senior Vice President of Frank X. Spencer and Associates, Inc.

  
Notary Public, State of Texas

My commission expires:

12-29-2022



**ATTACHMENT “A”  
SCOPE OF SERVICES**

## **Attachment “A” Scope of Work**

The contracts will be used for miscellaneous assignments on an on-call basis. Services to be included:

- Investigation
- Planning
- Platting
- GIS
- Stakeout of Right-of-way for all utility relocations

Products required to include:

- Right-of-way map
- Boundary survey
- Legal description
- ALTA survey
- Topographic elevations
- Temporary benchmarks
- Metes and bounds
- Installation/certification of City monuments
- Improvement surveys
- Utility easements surveys
- Electronic digital data via an electronic data sharing platform shall be readable by and compatible with the Capital Improvement Department’s AutoCAD platform and shall include, at the minimum, coordinate information and drawings.
- Hard copy which shall include original field books and drawings (specified to scale)
- Standards

All survey work shall meet or exceed the standards of practice set forth by the Texas Board of Professional Land Surveying in the General Rules of Procedures and Practices. More stringent standards may be set by the Capital Improvement Department at the time of assignment of a project.

Types of surveys required, but not limited to:

- Setting of aerial targets with the establishment of Texas State Plane Coordinates, Central Zone
- Boundary including the writing of legal descriptions
- Topographic surveys
- Construction surveys
- Field verification and as-built plans

**ATTACHMENT “B”**  
**CONSULTANT’S FEE PROPOSAL AND HOURLY RATES**

FRANK X SPENCER AND ASSOCIATES INC  
**SURVEYING**  
**SCHEDULE OF LOADED RATES WITHOUT PROFIT**  
YEAR ENDED DECEMBER 31, 2021

		Hourly Rate (unless noted otherwise)		
<u>Item No.</u>	<u>Direct Labor - Loaded Rates</u>	<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>
1	Program/Project Manager Sr	\$348.01	\$ 361.93	\$ 376.41
2	Project Manager	\$218.33	\$ 227.06	\$ 236.14
3	Texas Registered Professional Surveyor RPSLS Sr)	\$191.55	\$ 199.21	\$ 207.18
4	Registered Professional Surveyor (PS or PLS)	\$152.51	\$ 158.61	\$ 164.95
5	Survey Party Crew Chief	\$92.53	\$ 96.23	\$ 100.08
6	Survey Technician (office)	\$97.58	\$ 101.48	\$ 105.54
7	Survey Instrument Technician	\$59.87	\$ 62.27	\$ 64.76
8	Survey Rodman/Chairman	\$67.35	\$ 70.05	\$ 72.85
9	CADD Technician, Mid Level	\$95.25	\$ 99.06	\$ 103.02
10	CADD Technician, Jr	\$81.64	\$ 84.91	\$ 88.30
11	Clerical/Administrative	\$43.54	\$ 45.28	\$ 47.10
12	Sr. Subsurface Utility Engineer	\$188.40	\$ 195.94	\$ 203.78
13	Jr. Subsurface Utility Engineer	\$124.29	\$ 129.27	\$ 134.44
14	QA/QC Lead	\$152.48	\$ 158.58	\$ 164.92
15	SUE Field Manager	\$130.84	\$ 136.07	\$ 141.51
16	GIS Analyst	\$107.29	\$ 111.58	\$ 116.05
17	Technical Writer	\$117.75	\$ 122.47	\$ 127.36
18	SUE Designating 1 Man Crew	\$111.69	\$ 116.15	\$ 120.80
19	SUE Designating 2 Man Crew	\$255.14	\$ 265.34	\$ 275.96
20	SUE Location (vacuum excavation) 2 Man Crew	\$179.04	\$ 186.20	\$ 193.65
21	Survey 1 Man Crew	\$92.53	\$ 96.23	\$ 100.08
22	Survey 2 Man Crew	\$159.88	\$ 166.28	\$ 172.93
23	Survey 3 Man Crew	\$174.17	\$ 181.14	\$ 188.38

Overhead Rates

Overhead on Direct Labor (%) 25.92%

G& A Ovh (%) 146.22%

Other Direct Costs (ODCs)

148	GPS Receiver - Per Crew/Per Hour	\$ 14.43	\$ 15.01	\$ 15.61
153	GMC Sierra 1500 4WD Pickup/Per Hour	\$ 13.74	\$ 14.29	\$ 14.86
159	Standard Survey Equipment - Per Crew/Per Hour	\$ 9.76	\$ 10.15	\$ 10.56
160	QUAD ALL TERRAIN 4-WHEEL DRIVE	\$ 3.26	\$ 3.43	\$ 3.60
161	RANGER ALL TERRAIN 4-WHEEL DRIVE	\$ 8.00	\$ 8.40	\$ 8.82

**All travel will be reimbursed at GSA & FTR Rates at applicable burdens.**

2nd Year % Increase 4.00%

3rd Year % Increase 4.00%



SUMMARY  
SCHEDULE OF UNLOADED RATES  
YEAR ENDED DECEMBER 31, 2021

		Hourly Rate (unless noted otherwise)		
<u>Item No.</u>	<u>Direct Labor - Unloaded Rates</u>	<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>
1	Program/Project Manager Sr	\$127.88	\$133.00	\$138.32
2	Project Manager	\$80.23	\$83.44	\$86.77
3	Texas Registered Professional Surveyor RPSLS Sr)	\$70.39	\$73.20	\$76.13
4	Registered Professional Surveyor (PS or PLS)	\$56.04	\$58.28	\$60.61
5	Survey Party Crew Chief	\$34.00	\$35.36	\$36.77
6	Survey Technician (office)	\$35.86	\$37.29	\$38.78
7	Survey Instrument Technician	\$22.00	\$22.88	\$23.80
8	Survey Rodman/Chairman	\$24.75	\$25.74	\$26.77
9	CADD Technician, Mid Level	\$35.00	\$36.40	\$37.86
10	CADD Technician, Jr	\$30.00	\$31.20	\$32.45
11	Clerical/Administrative	\$16.00	\$16.64	\$17.31
12	Sr. Subsurface Utility Engineer	\$69.23	\$72.00	\$74.88
13	Jr. Subsurface Utility Engineer	\$45.67	\$47.50	\$49.40
14	QA/QC Lead	\$56.03	\$58.27	\$60.60
15	SUE Field Manager	\$48.08	\$50.00	\$52.00
16	GIS Analyst	\$39.43	\$41.00	\$42.64
17	Technical Writer	\$43.27	\$45.00	\$46.80
18	SUE Designating 1 Man Crew	\$41.04	\$42.68	\$44.39
19	SUE Designating 2 Man Crew	\$93.75	\$98.44	\$103.36
20	SUE Location (vacuum excavation) 2 Man Crew	\$65.79	\$69.08	\$72.53
21	Survey 1 Man Crew	\$34.00	\$35.70	\$37.49
22	Survey 2 Man Crew	\$58.75	\$61.69	\$64.77
23	Survey 3 Man Crew	\$80.75	\$84.79	\$89.03
<u>Overhead Rates</u>				
	Overhead on Direct Labor (%)	25.92%		
	G& A Ovh (%)	146.22%		
<u>Other Direct Costs (ODCs)</u>				
148	GPS Receiver (First Receiver)	\$13.12	\$13.65	\$14.19
153	GMC Sierra 1500 4WD Pickup	\$12.49	\$12.99	\$13.51
159	Standard Survey Equipment	\$8.88	\$9.23	\$9.60
160	ATV	\$2.97	\$3.08	\$3.21
161	RANGER ALL TERRAIN 4-WHEEL DRIVE	\$7.27	\$7.56	\$7.87
	2nd Year % Increase	4.00%		
	3rd Year % Increase	4.00%		

**ATTACHMENT “C”  
INTENTIONALLY DELETED**

**ATTACHMENT “D”  
PAYMENT AND DELIVERABLE SCHEDULES**

**PAYMENT SCHEDULE**

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

**Fixed fee Payment to Consultant**

<b>Report Phase</b>	<b>To be determined by Task Order</b>
<b>Preliminary Design Phase</b>	<b>To be determined by Task Order</b>
<b>Pre-Final Design Phase</b>	<b>To be determined by Task Order</b>
<b>Final Design Phase</b>	<b>To be determined by Task Order</b>
<b>Bidding Phase</b>	<b>To be determined by Task Order</b>
<b>Construction Phase</b>	<b>To be determined by Task Order</b>

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant’s proposal found in **Attachment “B”**. The time shown in **Attachment “B”** is an estimate.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant’s detailed Invoice and a Consulting 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/Consultant 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 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year. Consultant’s invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> of any given year, to coincide with 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 City. 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.

**ATTACHMENT “D”**  
**PAYMENT AND DELIVERABLE SCHEDULES**

**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).

**DELIVERABLE SCHEDULE**

To be determined by Task Order.

**ATTACHMENT “E”**  
**Insurance**

ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/22/2021

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 any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>USI Southwest</b> <b>7600C No. Capital of TX Hwy., Suite 200</b> <b>Austin, TX 78731</b>	<b>CONTACT NAME:</b> Debi Wylie <b>PHONE (A/C, No, Ext):</b> 512-651-4159 <b>FAX (A/C, No):</b> 610-537-2782 <b>E-MAIL ADDRESS:</b> debra.wylie@usi.com <b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A :</b> XL Specialty Insurance Company <b>NAIC #</b> 37885
<b>INSURED</b> <b>Frank X Spencer &amp; Associates, Inc.</b> <b>1130 Montana</b> <b>El Paso, TX 79902</b>	<b>INSURER B :</b> <b>INSURER C :</b> <b>INSURER D :</b> <b>INSURER E :</b> <b>INSURER F :</b>

## 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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	<b>Professional Liab</b> <b>Claims Made &amp; Reported Pol</b>			<b>DPR9983943</b> <b>Retro:03/01/79</b>	09/29/2021	09/29/2022	<b>\$1,000,000 per claim</b> <b>\$3,000,000 annl aggr.</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**RE: On-Call Professional Services - Surveying.**

## CERTIFICATE HOLDER

## CANCELLATION

<b>City of El Paso</b> <b>218 N. Campbell</b> <b>El Paso, TX 79901</b>	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. <b>AUTHORIZED REPRESENTATIVE</b> 
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FRANXSP-02

MNAJERA

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/25/2022

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 License # 4682 Hub International Insurance Services 601 N. Mesa, Suite 1550 El Paso, TX 79901	CONTACT NAME: PHONE (A/C, No, Ext): (915) 206-6023 FAX (A/C, No): (866) 399-3972 E-MAIL ADDRESS: tex.elpasoinfo@hubinternational.com
INSURED  Frank X. Spencer & Associates Inc. 1130 Montana Ave. El Paso, TX 79902	INSURER(S) AFFORDING COVERAGE INSURER A : Travelers Casualty and Surety Company 19038 INSURER B : The Travelers Indemnity Company of America 25666 INSURER C : Texas Mutual Insurance Company 22945 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"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:			6807H392222	2/28/2022	2/28/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			BA4R425951-21-47	2/28/2022	2/28/2023	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 checked="" type="checkbox"/> RETENTION \$ 10,000			CUP3N0564702147	2/28/2022	2/28/2023	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000
C	<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	0001188508	2/28/2022	2/28/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 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 Automobile policies include a blanket automatic additional insured endorsement or policy terms that provide additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status subject to policy terms and conditions. The General Liability, Automobile and Workers Compensation policies include a blanket waiver of subrogation status to the certificate holder that requires such status subject to policy terms and conditions. Insurance is primary and non-contributory.

Contract: City of El Paso On Call Professional Services – Surveying  
Solicitation #2021-1344R

## CERTIFICATE HOLDER

## CANCELLATION

City of El Paso Capital Improvement 218 N. Campbell St., Second Floor 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 
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## **ATTACHMENT “F”**



## **ATTACHMENT “F”**

### **FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS**

**In this Attachment “F”, the term “Contractor” shall refer to the “Consultant”, and the term “Airport Sponsor” shall refer to the “City”.**

**If there are any conflicts between the terms and conditions of Attachment “F” and Article VI of the Agreement, the terms and conditions of Attachment “F” will prevail.**

#### **A. GENERAL REQUIREMENT FOR CONTRACT**

1. The contractor (including all subcontractors) are required to insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts;
2. The contractor (or subcontractor) is required to incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
3. The contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider; and
4. The contractor (or subcontractor) shall not modify the provisions.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the contract.

#### **B. FAILURE TO COMPLY**

Failure to comply with the terms of these contract provisions may be sufficient grounds to:

1. Withhold progress payments or final payment,
2. Terminate the contract,
3. Seek suspension/debarment, or
4. Any other action determined to be appropriate by the Airport Sponsor or the FAA.

#### **C. CONTRACT PROVISIONS**

##### **1. ACCESS TO RECORDS AND REPORTS (all AIP-funded projects)**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized

representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after the final payment is made and all pending matters are closed.

2. **BREACH OF CONTRACT TERMS** (all contracts that exceed the simplified acquisition threshold as fixed at 41 USC 403(11). This threshold is presently set at \$100,000.)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. **BUY AMERICAN PREFERENCES** (all AIP-funded projects, if this professional services agreement includes any manufactured product as a deliverable.)

### **BUY AMERICAN CERTIFICATION**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

#### **Type of Certification is based on Type of Project:**

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

\*\*\*\*\*

### **Certificate of Buy American Compliance for Total Facility**

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
- a. Only installing steel and manufactured products produced in the United States; or
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
  2. To faithfully comply with providing US domestic products
  3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
  3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.

4. To furnish US domestic product for any waiver request that the FAA rejects.
5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

**Type 3 Waiver** - The cost of components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the “facility”. The required documentation for a type 3 waiver is:

- a. Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c. Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

---

Date

---

Signature

---

Company Name

---

Title

\* \* \* \* \*

## **Certificate of Buy American Compliance for Manufactured Products**

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- a. Only installing steel and manufactured products produced in the United States, or;
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
  - 2. To faithfully comply with providing US domestic product
  - 3. To furnish US domestic product for any waiver request that the FAA rejects
  - 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.

3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**Type 3 Waiver** - The cost of the item components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the “item”. The required documentation for a type 3 waiver is:

- a. Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c. Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

---

Date

---

Signature

---

Company Name

---

Title

4. **GENERAL CIVIL RIGHTS PROVISIONS (all contracts)**

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- a. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

5. **CIVIL RIGHTS-TITLE IV COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS (all AIP funded projects)**

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will 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. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontractor or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

6. **CLEAN AIR AND WATER POLLUTION CONTROL** (all contracts that exceed \$100,000)

Contractors and subcontractors agree:



1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

**7. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS (all contracts that exceed \$100,000)**

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

8. **CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)** (all contracts that exceed \$25,000)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

9. **DISADVANTAGED BUSINESS ENTERPRISES** (all AIP-funded projects)

**Contract Assurance (49 CFR § 26.13)** - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (49 CFR §26.29)**- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame

may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

**10. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE) (all contracts)**

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

<b>Requirement</b>	<b>Federal Agency with Enforcement Responsibilities</b>
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

**11. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES (all AIP-funded projects)**

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to

a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (all contracts)**

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

**13. RIGHTS TO INVENTIONS (all AIP-funded projects)**

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

**14. TERMINATION OF CONTRACT (contracts that exceed \$10,000)**

1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed

to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**15. TRADE RESTRICTION CLAUSE (all AIP-funded projects)**

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may

direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

**16. TEXTING WHEN DRIVING (all contracts)**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.



Legislation Text

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File #: 22-1124, Version: 1

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**CITY OF EL PASO, TEXAS**  
**LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

El Paso Water, Lisa Franklin Rosendorf, (915) 594-5669

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action that the City Manager or his designee be authorized to sign required documents and submit an application to the Texas Military Preparedness Commission for the Defense Economic Adjustment Assistance Grant (DEAAG) for the construction of the McGregor Range Waterline Replacement.

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

**AGENDA DATE:** August 30, 2022  
**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Lisa Franklin Rosendorf, Chief Communications and Government Affairs Officer, 915-594-5669

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 7 – Enhance and sustain El Paso's infrastructure network

**SUBGOAL:** Goal 7.1 - Provide reliable and sustainable water supply and distribution systems.

**SUBJECT:**

Discussion and action that the City Manager or his designee be authorized to sign required documents and submit an application to the Texas Military Prepared Commission for the Defense Economic Adjustment Assistance Grant (DEAAG) for the construction of the McGregor Range Waterline Replacement Project – Phase 1. Request Council approval of a resolution of support for the project.

**BACKGROUND / DISCUSSION:**

The McGregor Range water distribution pipeline is a 12-inch diameter line that was installed in 1952, and it has since gone beyond its useful life. It is the sole water distribution line delivering water from El Paso Water to McGregor Range, which is an integral part of the U.S. Army Fort Bliss Military Installation. The proposed project will replaced the current line with a larger 16-inch diameter line to accommodate mission expansion needs. This project will enhance the base's military readiness, which in turn contributes to economic development within the City.

**PRIOR COUNCIL ACTION:**

Council previously has approved DEAAG applications. On Aug. 16, 2022, council unanimously approved the City's DEAAG application to provide a secure vehicle corridor between Fort Bliss and the William Beaumont Army Medical Center.

**AMOUNT AND SOURCE OF FUNDING:**

The DEAAG application requests \$3,736,000 in funding from the Texas Military Preparedness Commission with a 50-percent funding match from El Paso Water.

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  X  YES   NO

**PRIMARY DEPARTMENT:** El Paso Water

**SECONDARY DEPARTMENT:** Military Affairs

\*\*\*\*\*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 City Manager be authorized to submit an application to the Office of the Governor, Texas military Preparedness Commission for the Defense Economic Adjustment Assistance Grant (“DEAAG”) for the McGregor Range Waterline Replacement Project – Phase 1, which involves the first phase of a replacement of a water distribution line that serves the McGregor Range training facilities. Phase 1 of this project replaces the off-base portion of this aging distribution line with a new larger diameter line to meet growth needs. Phase 2 will replace an off-base pump station, and Phase 3 will replace the on-base portion of the water distribution line. As the sole water distribution line serving McGregor Range, this project is needed to reduce the potential of any disruptions to the national security training missions that take place at McGregor Range and to accommodate growth and expansion. Fort Bliss has indicated this project is the top priority for water resilience at the military base. This project will contribute to water reliability and support growth. The cost of the McGregor Range Waterline Replacement Project – Phase 1 is \$7,472,000, and the City utility - El Paso Water Utilities Public Service Board - will fund 50% of the cost of the project. Through the DEAAG grant, the City will request 50% of the project cost (\$3,736,000).

Further, that the City Manager, or designee, be authorized to explore funding sources and partnerships and to execute any documents and agreements in relation to the grant, funding sources, and/or partnerships agreements, after consultation with the City Attorney’s Office. In addition, the City Manager or designee is authorized to sign any related documents, including but not limited to budget transfer authorizations, revisions to the operation plan, grant amendments and/or corrections or extensions of the grant that increase, decrease or de-obligate program funds.

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022


**THE CITY OF EL PASO**

\_\_\_\_\_  
Oscar Lesser  
Mayor


**ATTEST:**

\_\_\_\_\_  
Laura Prine  
City Clerk

**APPROVED AS TO FORM:**

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

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Tracey Jerome  
Senior Deputy City Manager



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# DEFENSE ECONOMIC ADJUSTMENT ASSISTANCE GRANT

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OFFICE OF THE GOVERNOR  
Texas Military Preparedness Commission  
Summer 2022

<i>For TMPC Use Only</i>
<b>Date Received</b>
<b>Applicant</b>
<b>Project</b>

## Program Overview

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The program is administered by the Texas Military Preparedness Commission (Commission) within the Office of the Governor. The Defense Economic Assistance Adjustment Grant (DEAAG) is codified in Texas Government Code Chapter 436 and in Subchapter B of Title 1, Chapter 4 of the Texas Administrative Code.

Eligible local governmental entities may be awarded a grant if the commission determines that the entity may be adversely or positively affected by an anticipated, planned, announced, or implemented action of the United States Department of Defense (DoD) to close, reduce, increase, or otherwise realign defense worker jobs or facilities.

To review Texas Government Code 436, visit  
<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.436.htm>.

To review the Texas Administrative Code, visit  
[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=1&pt=1&ch=4&sch=B&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=1&pt=1&ch=4&sch=B&rl=Y)

**All grant funds must be expended within two years of the award date. This grant follows the Uniform Grant Management Standards.**

A defense community is eligible for a grant from DEAAG if the commission determines that it satisfies one of the eligibility criteria as referenced in above in the Texas Government Code and Texas Administrative Code. The grant funds are administered on a reimbursement basis. Administrative costs will not be allowed for reimbursement. Please contact the Texas Military Preparedness Commission at [tmpe@gov.texas.gov](mailto:tmpe@gov.texas.gov) or 512-475-1475 should you have any questions.

The grant will be scored on the following criteria: military value, project probability, relation to the National Defense Strategy, dual military/community benefit, new missions, resiliency, and efficiency.

**All support letters must be attached to application. They are not part of the scoring process. Please keep in mind that this application is limited to 50 pages including application pages.**

Unauthorized changes to this application will render the application and any subsequent grant void.

**Applications are due by 5:00 PM CT on Wednesday, August 31, 2022. Any application received after this time will be ineligible for consideration.**

**Applications are accepted via email (preferred) at [tmpe@gov.texas.gov](mailto:tmpe@gov.texas.gov), in-person, or at the addresses below by the application deadline:**

Mailing Address:  
Texas Military Preparedness Commission  
Office of the Governor  
P.O. Box 12428  
Austin, TX 78711

Street Address:  
Texas Military Preparedness Commission  
Office of the Governor  
1100 San Jacinto  
Austin, TX 78701

For additional information on DEAAG, please refer to <http://www.gov.texas.gov/military/grants>.

## Applicant Information

Name of Applicant City of El Paso/El Paso Water Utilities

300 N. Campbell, El Paso, TX 79901

Address

Lisa Franklin Rosendorf

Point of Contact

915-594-5669

LRosendorf@epwater.org

Point of

Contact Phone

☒ Yes ☐ No

Are all involved entities currently in compliance with the State of Texas? If no, please explain. Attach additional pages as necessary as Attachment A. Please keep in mind that this application is limited to 50 pages.

Not applicable

2. Is there a pending claim or litigation against any entity involved with the project?

☐ Yes ☒ No

If yes, please explain. Attach additional pages as necessary as Attachment B. Please keep in mind that this application is limited to 50 pages.

There is no pending claim or litigation that involves or affects the City's ability to participate in this project.

3. Please provide documentation authorizing entity to participate in program. An example is a public hearing, ordinance, or resolution. Attach as Attachment C. Please keep in mind that this application is limited to 50 pages.

The City Council of the City of El Paso passed a resolution on August 30, 2022 authorizing the City Manager or his designee to submit the DEAAG grant application. City Resolution provided in Attachment C.

## Project Summary

Project Name: McGregor Range Waterline Replacement Project - Phase 1

4. Provide a **short** summary of the project to be funded.

The original McGregor Range water distribution pipeline was installed in 1952 as a 12-inch diameter line, and it has gone beyond its useful life. It is the sole water distribution line delivering water from the city utility - El Paso Water - to the McGregor Range, which is an integral part of the U.S. Army Air Defense Artillery Center at Fort Bliss. The McGregor Range Waterline Replacement Project will replace the current line with a larger 16-inch diameter line to accommodate mission expansion needs. The first phase of the project is to replace a 2-mile stretch of pipeline that is within the city of El Paso (off-base). The project includes furnishing and installing a ductile iron transmission pipe along with necessary valves, backflow preventer, cathodic protection and other appurtenances. It is the first phase of a three-phase replacement project to serve the needs of Fort Bliss missions at McGregor Range.

5. Funding Source	Total Dollar Amount	Percentage Share of Project
A. Requested Amount of DEAAG	\$ 3,736,000.00	50.000%
B. Federal		0%
If DEAAG is being used towards matching a federal grant, please note the total amount of the federal grant.		0%
C. Local Community Funding (Note if funding is in-kind).	\$ 3,736,000.00	50.000%
D. Other Sources		0%
Total Project	\$ 7,472,000.00	100.000%

## Eligibility

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6. An entity is eligible for DEAAG if it satisfies one of the following; please select which qualification applies:

- ☒ Municipality or county that is a defense community as defined in Local Government Code 397.001
- ☐ Regional planning commission that has a defense community within its boundaries
- ☐ Public junior college district that is wholly or partly located in a defense community
- ☐ Campus or extension center for education purposes of the Texas State Technical College System located in a defense community
- ☐ Defense base development authority created under Local Government Code 379B
- ☐ Political subdivision having the power of a defense base development authority created under Local Government Code 379B

## Eligibility of Adversely Affected Community

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- ☒ This applicant is not adversely affected. If checked, please proceed to question 8.

7. An entity is an adversely affected defense community if it has experienced:

- ☐ An anticipated, planned, announced, or implemented action of the Department of Defense to close, reduce, or otherwise realign defense worker jobs or facilities.

## Eligibility of a Positively Affected Community

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- ☐ This applicant is not positively affected. If checked, please proceed to question 9.

8. An entity is a positively affected defense community if it has experienced:

- ☒ Increase in military missions, including personnel gains at a military installation, within a municipality or county as a result of a Department of Defense anticipated, planned, announced, or implemented action to increase or otherwise realign defense worker jobs or facilities.

## Summary of Eligibility & Impact

9. Provide a Summary of Eligibility regarding status as positively or negatively affected community with documentation. ***Failure to provide documentation to determine eligibility for the program will result in a return of this application without further review.*** Describe the impact of the change in mission or personnel in the military installation or defense facility and community or the gain that is predicted to occur. Describe the impact on housing, transportation, infrastructure and security where applicable. Attach additional pages as necessary as Attachment D. Please keep in mind that this application is limited to 50 pages.

Fort Bliss is a multi-faceted, multi-functional installation serving and supporting all branches of the military service as well as other federal agencies. Fort Bliss is home to a diverse group of national security organizations, such as the 1st Armored Division, the 32nd Army Air and Missile Defense Command, the Joint Modernization Command, the William Beaumont Army Medical Center, the United States Sergeants Major Academy, Joint Task Force North, and the U.S. Army Garrison Command Fort Bliss.

The City of El Paso and Fort Bliss benefited from the last Base Realignment and Closure Commission's (BRAC) decision that converted Fort Bliss into one of the primary Power Projection Platforms in the Army's inventory resulting in a \$6 billion federal investment initiated in 2005, making it the largest base expansion in DoD history. The Fort Bliss soldier population grew from 9,330 in FY2005 to more than 40,000 currently. Over the last 15 years, Fort Bliss has seen significant changes, transforming it from an institutional training installation into a major mounted maneuver training post. Fort Bliss has nearly quadrupled in size with the arrival of the 1st Armored Division from Germany, a Fire Brigade from Fort Sill, four brigade combat teams, a combat aviation brigade and other units.

Since 2005, 198 new facilities have been constructed on base encompassing 13 million additional square feet. The new William Beaumont Army Medical Center, a multi-facility complex, opened within the last year with 6 additional buildings estimated at 1.13 million square feet.

Fort Bliss has a private utility - Fort Bliss Water -- that draws water from the aquifer to provide for 75% of the water needs. Fort Bliss Water manages the water distribution system for the base. The City utility - El Paso Water - provides Fort Bliss with wholesale water services that meet 25% of the base's water demand. City water comes from aquifers, river water and desalinated water. City water is used exclusively to supply the McGregor Range. Mission activities conducted on McGregor Range include training to maintain the operational readiness of active duty, reserve, and National Guard units through various training, operations and field exercises, and testing.

See Attachment D for more information.

## Project Description

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10. Check all that apply:

- ☒ Construct New Facility / Infrastructure<sup>1</sup>
- ☐ Expand Existing Facility / Infrastructure<sup>1</sup>
- ☐ Renovate Facility / Infrastructure<sup>1</sup>
- ☐ Federal Grant Match<sup>2</sup>
- ☐ Property Purchase<sup>3</sup>
- ☐ Purchase of Insurance<sup>4</sup>
- ☐ Purchase Capital Equipment
- ☐ Purchase Training Equipment

11. Provide a description of the project in the space below including specific details and documentation of the applicable project description as noted above. Examples include anticipated costs, project timeline, military gifting timeline, etc. Attach additional pages as necessary as Attachment E. Please keep in mind that this application is limited to 50 pages.

The McGregor Range Waterline Replacement Project is a three-phase project to replace an aging 14.5 mile pipeline. The existing 1952 line has passed its useful life and is in need of replacement, and Fort Bliss has determined a larger pipeline is needed for increased water needs to accommodate mission growth.

Phase 1 - and the focus of this grant application - is to replace 2 miles of pipeline that conveys water from the newly completed Franklin East water storage tank to a city-operated pump station near the Fort Bliss boundary.

**Cost:** The McGregor Range Waterline Replacement Project Phase 1 is estimated to cost \$7.4 million, and the City/El Paso Water is asking for a \$3.7 million DEAAG grant. The entire 3-phase project is estimated to cost \$27 million.

**Timeline:** Design is underway for Phase 1, and construction will begin in March 2023. The construction is expected to take 15 months. Construction is scheduled to be completed in July 2024.

See Attachment E for more information.

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<sup>1</sup> New Construction, Expansion or Renovation of Facilities or Infrastructure – Describe the use of the facility or infrastructure to be constructed or replaced, expanded or renovated.

<sup>2</sup> Federal Match Grant – Summarize the use of the DEAAG funding in obtaining federal funding. A federal award letter, Memorandum of Understanding or agreement must be provided before the release of state grant funds.

<sup>3</sup> Property Purchase – Describe the real or personal property to be purchased. Include general description of buildings and a map of the property to be purchased accompanied by a copy of the conveyance documents or a summary of conveyance negotiations.

<sup>4</sup> Purchase of Insurance – Describe the insurance to be purchased including the type of coverage limits.



12. Does the project add military value to a military installation or defense facility? How? Attach additional pages as necessary as Attachment F. Please keep in mind that this application is limited to 50 pages.

The City utility - El Paso Water - has partnered with Fort Bliss to identify and prioritize water resilience strategies, and the McGregor Waterline Replacement Project has been identified by Fort Bliss as the #1 water resilience priority. The McGregor Range Waterline Replacement Project will assure water reliability in support of current and future McGregor Range national security missions.

McGregor Range has a complement of range support facilities that require water service. McGregor Range Base Camp is the home of the USA CAS Battalion. In addition to housing the battalion, organizational support facilities, and all range control functions, McGregor Range Base Camp can provide lodging and mess for more than 700 personnel. Orogrande Base Camp on McGregor Range has 2 dining facilities, a single maintenance facility, and the ability to provide lodging for more than 800 personnel.

See Attachment F for more information.

13. Does the project fit into the most recent National Defense Strategy? How? Attach additional pages as necessary as Attachment G. Please keep in mind that this application is limited to 50 pages.

Water is essential to all of Fort Bliss missions that align with the National Defense Strategy. Fort Bliss is one of the U.S. Department of Defense's flagship power projection platforms comprised of state-of-the-art training areas, ranges, an airfield, and facilities; led by adaptive innovative and warrior-focused professionals, concentrated on individual and unit readiness, leadership development, deployment security, and the well-being of Fort Bliss. Fort Bliss trains and sustains, mobilizes and deploys members of the joint team to conduct global, full spectrum operations in support of the national military strategy, while providing for the well-being of the regional military community.

The McGregor Waterline Replacement Project will support the McGregor Range training missions that are likely to be needed for all four main objectives identified in the 2022 National Defense Strategy (NDS): 1) Defending the homeland; 2) Deterring attacks against the U.S and its foreign allies; 3) Deterring foreign aggression; and 4) Strengthening America's "Joint Force" and defense ecosystem.

See Attachment G for more information.

14. Does the project have dual community/military benefit? How? Attach additional pages as necessary as Attachment H. Please keep in mind that this application is limited to 50 pages.

The main benefit for the replacement project is for Fort Bliss and all Americans who benefit from the national security missions of Fort Bliss. However, there are several important community benefits of the project: 1) The Phase 1 replacement line will be located on property with a shared alignment with a new City water pipeline that will be installed due to growth in Northeast El Paso. Construction and pipeline installation will occur at the same time. By having a common alignment and similar construction schedule, it will reduce costs for the City's new water line by as much as 15%; 2) Construction of water infrastructure is well documented to have economic benefits, including jobs; and 3) The project will support important missions of Fort Bliss, enabling the base to continue to deliver major economic benefits to El Paso and Texas.

See Attachment H for more information.

15. Does the project bring in new missions or expand current missions? How? Attach additional pages as necessary as Attachment I. Please keep in mind that this application is limited to 50 pages.

Yes - The 2021 Texas Military Value Task Force Report indicates that Fort Bliss has room to grow by incorporating additional missions with the support of current and expanded infrastructure. The new McGregor Range Waterline Replacement will increase the volume of water that can be supplied to the McGregor Range, enabling growth and expansion of current and future missions. Fort Bliss specifically requested that the new waterline replacement be a larger line (old 12-inch, new 16-inch) to accommodate growth in current and/or new missions.

No Attachment I.

16. Does the project add resiliency to the military installation? How? Attach additional pages as necessary as Attachment J. Please keep in mind that this application is limited to 50 pages.

Fort Bliss has informed the utility that the new McGregor Range water pipeline is their #1 priority for water resilience. The current waterline was installed in 1952, and it has passed its useful life. Since it is the only water distribution line serving that part of Fort Bliss, there is concern about potential disruptions to mission if the line were to experience a failure. Fort Bliss has also requested a larger line so it can receive more water and support growth and expansion. While the existing line would be taken out of service when the new line is installed (different location), the older line could stay in place, serving as an alternate line for a bypass should there ever be any disruption to the new line.

No attachment J.

17. Does the project help the military installation become more efficient or save money on costs such as utilities? How? Attach additional pages as necessary as Attachment K. Please keep in mind that this application is limited to 50 pages.

By replacing the pipeline sooner rather than later, Fort Bliss can plan ahead and secure budget funding for the on-base portion of the pipeline in a cost efficient way. In the absence of replacement, Fort Bliss may be forced to perform emergency repairs or replacement, which could significantly drive up costs of the new 12.5 -mile pipeline. According to the utility's in-house engineering experts, emergency replacement increases costs by a factor of two or more. With new water storage recently constructed, the City can provide pressures and quantity of water desired by Fort Bliss for McGregor Range. The City is moving forward on its portion of the pipeline so that Fort Bliss can move forward in a timely cost-efficient manner on its own portion of the line.

No Attachment K.

## Projected Completion Date & Milestones of Project

18. Complete the following applicable milestones:

Begin Construction March 2023

Complete Construction July 2024

Purchase Machinery & Equipment \_\_\_\_\_

Begin Operations Upon completion of all three phases (estimate 2027)

Fully Operational Upon completion of all three phases (estimate 2027)

19. Is construction on Department of Defense property?

☐ Yes ☒ No **(Later phases will be, but this phase is not.)**

20. Is construction on local, city, or county owned property?

☐ Yes ☒ No

21. Please provide limited and relevant information concerning your expenses for the project. For example, provide an overview of a budget as opposed to the full budget. Please provide as attachment L. Please keep in mind that this application is limited to 50 pages.

***The Office of the Governor follows Universal Grant Management Standards as set by the State of Texas and the Federal Government. Please review these standards before submitting your projected expenses.***

***For more information, visit <https://comptroller.texas.gov/purchasing/docs/ugms.pdf>***

***Administrative costs will not be reimbursed through this grant.***

# Project Expense Estimate

## Expense Estimates Schedule (Grant Funds Only)

Purchase of Property	\$ 0.00
Professional & Consultant Services	\$ 1,494,340.00
New Construction (Infrastructure)	\$ 3,900,660.00
Rehabilitation & Renovation (Infrastructure)	
Capital Equipment <sup>5</sup>	\$ 2,077,000.00
Facilities Insurance	
Training Equipment <sup>6</sup>	
Training Supplies <sup>7</sup>	
<b>Total Cost (Grant Funds Only)</b>	<b>\$ 7,472,000.00</b>

Provide any clarification in the following space:

<sup>5</sup> Per UGMS, "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and a per unit acquisition cost of \$5,000 or more.

<sup>6</sup> *Id.*

<sup>7</sup> Per UGMS, items of equipment with a per unit acquisition cost of less than \$5,000 are considered to be supplies.

## Project Funding Sources

### Funding Schedule

22. Please complete the following where applicable:

Funding Type	Source	Amount of Funding
Federal		
State		
	DEAAG-TMPC	\$ 3,736,000.00
Other State Entity		
Local		
	El Paso Water Utilities	\$ 3,736,000.00
Other		
Total		\$ 7,472,000.00

### Other Financial Partners

23. Is DEAAG the sole source of project funding? If no, please provide additional information in the section below.

☐ Yes ☒ No

Provide a description explaining the funding types and sources identified in the funding schedule. Include a description of any ongoing efforts to acquire funding from other sources including federal agencies and other financial partners. Attach additional pages as necessary as Attachment M. Please keep in mind that this application is limited to 50 pages.

The City water utility has 10-year Capital Improvement Plan, and has included planned budget amounts for the McGregor Waterline Replacement Project - Phase I in 2023 and 2024. Funding for FUTURE phases of the project will include City water utility funding (off-base portions of infrastructure), Fort Bliss funding (on-base portions of infrastructure), and the utility will also apply for grant funding for a Defense Community Infrastructure Grant through the Department of Defense's Office of Local Defense Community Cooperation.

## Request for Exceptional Funding

**This question must be filled out if you are receiving more than 50% of your project funds from the TMPC. If it is not filled out, you cannot be granted more than 50% of your request.**

☒ Applicant is not requesting exceptional funding

24. Establish and provide justification if requesting greater than 50 percent grant match under Texas Government Code §436.202 and 1 TAC § 4.34; provide explanation and documentation that local community budget and resources are not adequate or available. Justification should include information on the lack of revenue and resources prompting this request. Provide specific information on local efforts to secure adequate funding. *Attach additional pages as necessary as Attachment N.* Please keep in mind that this application is limited to 50 pages.

N/A

## Additional Information

Please provide additional applicable information specific to this project (attach additional pages as necessary as Attachment O). Please keep in mind that this application is limited to 50 pages.

# Certification of Application

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## Grantee Governing Body Representative (Required)

Prefix Mr.

First Name Tommy

Last Name Gonzalez

Title City Manager

Organization City of El Paso

Mailing Address 300 N. Campbell, El Paso, TX 79901

Phone Number (915) 212-1061

Fax Number \_\_\_\_\_

Email Address tgonzalez@elpasotexas.gov

To the best of my knowledge and belief, the information contained in this Defense Economic Adjustment Assistance Grant Application is true and correct, as evidenced by my signature below. Furthermore, I affirm the authorized representative, the applicant author, or contact person and the project administrator have read chapter 436 of the Texas Government Code and the program administrative rules may be found in Subchapter B of Title 1, Chapter 4 of the Texas Administrative Code and are familiar with the provisions contained therein.

Signature \_\_\_\_\_ Date \_\_\_\_\_  
(Governing Body Representative)

## Participating Legal Counsel (Optional)

This page may be discarded from application package if not used.

☒ No legal counsel involved in the project

Prefix \_\_\_\_\_

First Name Roberta

Last Name Brito

Title Assistant City Attorney

Organization City of El Paso

Mailing Address 300 N. Campbell El Paso, Texas

Phone Number 915-212-1119

Fax Number \_\_\_\_\_

Email Address britora@elpasotexas.gov

I confirm that the above-named legal counsel has been retained to participate in this application process as outlined above.

Signature *Elda R. Hefner* Date 08/16/2022  
(Governing Body Representative)

Printed Name Elda Rodriguez-Hefner Title Grants Administrator

To the best of my knowledge and belief, the information in this Defense Economic Adjustment Assistance Grant Application is true and correct.

Signature *Roberta Brito* Date 08/16/2022  
(Participating Legal Counsel)

Printed Name Roberta Brito Title Assistant City Attorney



## Participating Grant Administrator (Optional)

This page may be discarded from application package if not used.

☒ No grant administrator involved in the project

Prefix \_\_\_\_\_

First Name Elda

Last Name Rodriguez-Hefner

Title Grants Administrator

Organization City of El Paso

Mailing Address 300 Campbell El Paso, Texas 79901

Phone Number (915) 478-5949

Fax Number \_\_\_\_\_

Email Address rodriguez-hefnere@elpasotexas.gov

Please provide a brief description of grant administrator's role with this application:

City's financial oversight of grant funds.

I confirm that the above-named grant administrator has been retained to participate in this application process as outlined above.

Signature Elda R. Hefner Digitally signed by Elda R. Hefner  
Date: 2022.08.10 17:42:44 -06'00' Date 08/10/2022  
(*Governing Body Representative*)

Printed Name Elda Rodriguez-Hefner Title Grants Administrator

To the best of my knowledge and belief, the information in this Defense Economic Adjustment Assistance Grant Application is true and correct.

Signature Elda R. Hefner Digitally signed by Elda R. Hefner  
Date: 2022.08.10 17:43:22 -06'00' Date 08/10/2022  
(*Participating Grant Administrator*)

Printed Name Elda Rodriguez-Hefner Title Grants Administrator

## ATTACHMENT C – City Council Resolution

### RESOLUTION

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

That the City Manager be authorized to submit an application to the Office of the Governor, Texas military Preparedness Commission for the Defense Economic Adjustment Assistance Grant (“DEAAG”) for the McGregor Range Waterline Replacement Project – Phase 1, which involves the first phase of a replacement of a water distribution line that serves the McGregor Range training facilities. Phase 1 of this project replaces the off-base portion of this aging distribution line with a new larger diameter line to meet growth needs. Phase 2 will replace an off-base pump station, and Phase 3 will replace the on-base portion of the water distribution line. As the sole water distribution line serving McGregor Range, this project is needed to reduce the potential of any disruptions to the national security training missions that take place at McGregor Range and to accommodate growth and expansion. Fort Bliss has indicated this project is the top priority for water resilience at the military base. This project will contribute to water reliability and support growth. The cost of the McGregor Range Waterline Replacement Project – Phase 1 is \$7,472,000, and the City utility - El Paso Water Utilities Public Service Board - will fund 50% of the cost of the project. Through the DEAAG grant, the City will request 50% of the project cost (\$3,736,000).

Further, that the City Manager, or designee, be authorized to explore funding sources and partnerships and to execute any documents and agreements in relation to the grant, funding sources, and/or partnerships agreements, after consultation with the City Attorney’s Office. In addition, the City Manager or designee is authorized to sign any related documents, including but not limited to budget transfer authorizations, revisions to the operation plan, grant amendments and/or corrections or extensions of the grant that increase, decrease or de-obligate program funds.

HOLD FOR SIGNATURE PAGE

## ATTACHMENT D – Eligibility and Impact: Positive Gain through BRAC and Future Growth

**Potential for Growth:** Fort Bliss is well positioned with its various assets to meet expand current missions and to meet new mission needs. Water security and resilience is an essential prerequisite to successfully accommodate new missions in a sustained and methodical manner.

The Texas Military Value Task Force published a 2021 Report that identified strengths and opportunities for Fort Bliss.

### Strengths

- Fort Bliss is one of the newest complete Power Project Platform installations in the Army. It can project units by air, rail, and highway to ports on the East and West coasts.
- Any Army weapon system can be fired at Fort Bliss.
- With the longest runway in the Army, Fort Bliss has mobilized 50,000 troops a year, which is at least half of the Army's load.
- Fort Bliss is one of the few installations in the DoD that owns the airspace ground (subterranean) to air (stratosphere).
- Fort Bliss has the largest restricted airspace in the United States.
- Only active component Continental United States (CONUS) Replacement Center (CTC) in the Army.
- One of the two active joint Mobilization Force Generation Installation in the DoD and is the largest of the two.
- Fort Bliss has trained units/soldiers/civilians from all 50 U.S. states and four U.S. territories, including the National Guard.
- Received an additional Armored Brigade Combat Team since the last report's recommendations.
- Home to new Iron Dome Batteries.

### Opportunities

- Testing and evaluation of new Army communication equipment. All new communications equipment goes through Fort Bliss for Cyber systems connectivity and meeting standards before being procured by the Army.
- The Mission Training Complex and Training Support Center provide exceptional mission support and can take on additional training.

- The New William Beaumont Army Medical Center was completed within the last year. El Paso is medically understaffed, so this is an excellent opportunity for growth. Medical Command considers true readiness to be able to have medical staff to support all military families.
- Training for interagency (including effective interrogation, military decision making) conducted for interagency partners with great success.
- Can accommodate additional National Guard unit training.

Many of the training missions occur at the McGregor Range, and expansion opportunities require a larger water supply. Fort Bliss has specifically requested a larger diameter pipeline to McGregor for the purpose of meeting expansion needs.

## ATTACHMENT E - Specific details and documentation of project.

The City utility and Fort Bliss have been in discussions on the need to replace the McGregor Range water line for several years. Chief among concerns is aging infrastructure and the concerns around reliability of the line, which was built in 1952. As the only water distribution line serving the McGregor Range, any leaks or breaks in the line could disrupt training mission activity. In addition to the concerns over aging infrastructure, Fort Bliss has requested that the line be increased from a 12-inch diameter line to a 16-inch diameter line that will allow for increased water flow and delivery, allowing for growth and expansion of McGregor Range facilities

Fort Bliss water system does not have the capacity to convey the expected water demand nor pressures necessary to service McGregor Range, which includes hundreds of thousands of acres and extends into New Mexico.

The City's utility has proactively been planning for the growth and development in Northeast El Paso and has constructed waterlines, pump stations and elevated storage tanks and associated facilities that have the capacity to service this area of Fort Bliss with reliable water service at the quantity and pressure desired by Fort Bliss.

### Cost

The McGregor Range Pipeline Replacement Project is a three-phase project totaling an estimated \$27 million.

- The first phase is to furnish and install a 2-mile ductile iron pipe to deliver water to a pump station near the installation border.
- The second phase is to build a new pump station at the city-Fort Bliss boundary.
- The third phase is for Fort Bliss to install a 12.5-mile pipe from the pump station to McGregor Range.

Project	Total Project Costs
Phase 1 – 2-mile pipeline off-base	\$ 7,472,000
Phase 2 – Pump station – off-base	\$ 4,309,000
Phase 3 – 12.5-mile pipeline on-base	\$16,096,250
<b>TOTAL</b>	<b>\$27,465,000</b>



2022 DEAG grant application requests 50% of Phase 1 costs

A detailed engineering cost estimate for Phase 1 is provided below.

## McGregor Range Prop. Water System – EPWater Portion – Phase 1

Items	Description	Unit	Quantity	Unit Price	Total Price
1	Furnish & Install 16-inch DI Discharge Transmission Main from New PS to new Master Meter	LF	13,000	\$ 195.00	\$2,535,000.00
2	Furnish & Install 16-inch Gate Valves	EA	26	\$21,000.00	\$ 546,000.00
3	Furnish & Install 3-inch Combo Air Release Valve with Service Mh	EA	5	\$15,000.00	\$ 75,000.00
4	Blow off Valve	EA	6	\$16,000.00	\$ 96,000.00
5	Master Meter and Backflow Preventer	EA	1	\$70,000.00	\$ 70,000.00
6	Cathodic Protection	LF	13,000	\$ 16.00	\$ 208,000.00
7	Trench Excavation Protection	LF	13,000	\$ 5.00	\$ 65,000.00
8	Pavement Remove & Replace of Carlos Ramirez Dr.	SY	4,444	\$ 44.00	\$ 196,000.00
9	Cement Stabilized Backfill	CY	8,889	\$ 65.00	\$ 578,000.00
10	Traffic Control	LS	1	\$10,000.00	\$ 10,000.00
11	<b>SUBTOTAL</b>				<b>\$4,379,000.00</b>
12	Mobilization	%	5		\$ 218,950.00
13	Contingency	%	30		\$1,379,390.00
14	Engineering	%	25		\$1,494,340.00
15	<b>TOTAL</b>				<b>\$7,472,000.00</b>

### Phase 1 Schedule

<b>Design</b>	<b>July 2022 – November 2022</b>
Construction Bidding and Award of Contract	December 2022 – February 2023
Mobilization	March 2023
Construction begins	March 2023
Construction completed	July 2024

Phase 2 construction is estimated to occur in the 2024-2025 timeframe.

Phase 3 construction is estimated to occur in the 2025-2027 timeframe, subject to Congressional and Fort Bliss budget approvals.

The pipeline is expected to be operational in 2027 at the completion of all three phases, subject to Congressional and Fort Bliss budget approvals.

### Map and Pathway of Pipeline

This project consists of the design of a dedicated 16-inch transmission waterline, using ductile iron pipe, from the Franklin East pump station parallel to US-54 to Carlos Ramirez to Vista Del Norte to Stan Roberts Ave. and ending at Dyer St. near the boundary of Fort Bliss with a new meter at the pump station. This will provide Fort Bliss with an isolated transmission waterline.

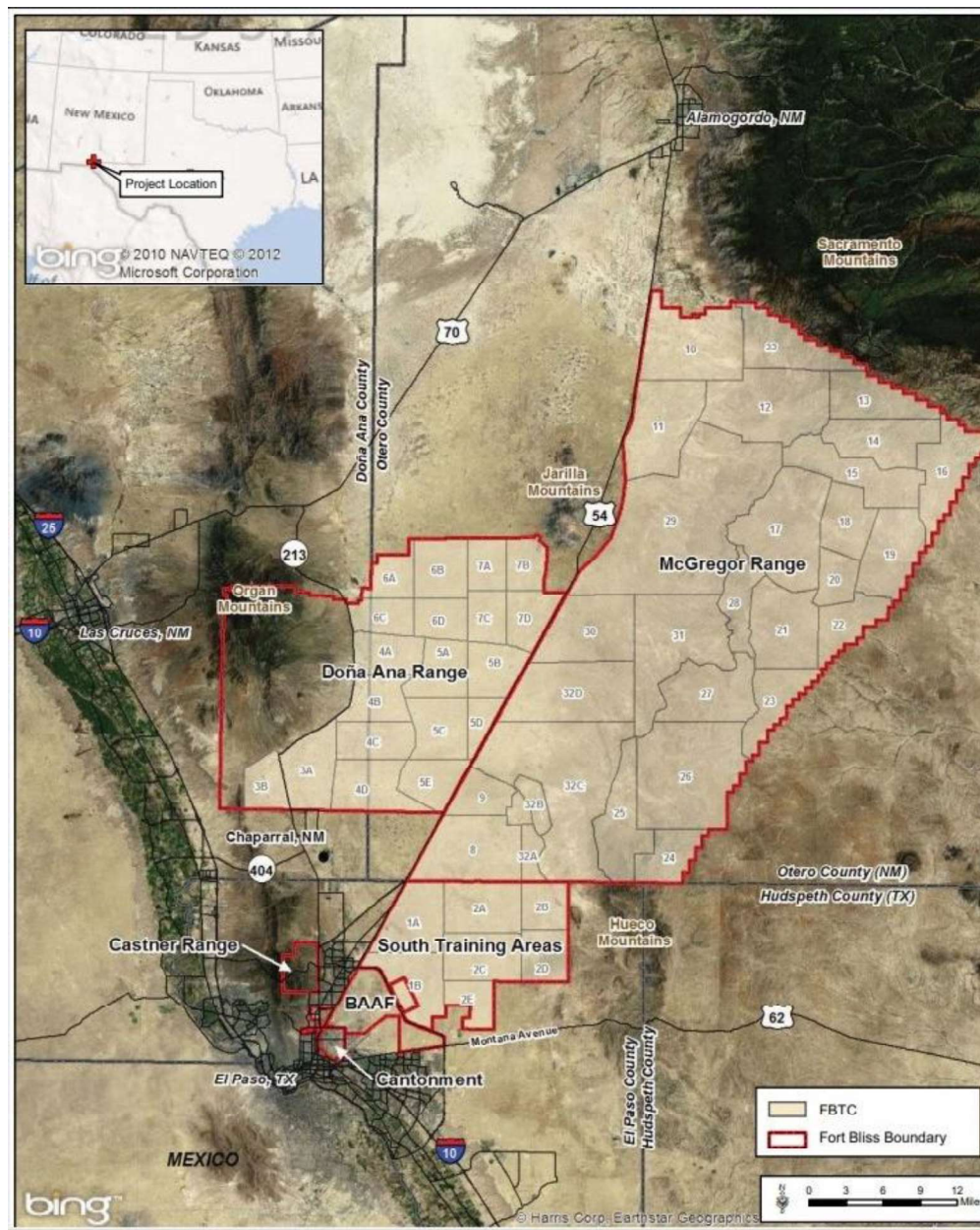




## ATTACHMENT F - Military value for installation

Fort Bliss has indicated that an expansion of McGregor Range and its missions will require more water than can be currently delivered and has also requested a larger and more reliable line. By replacing the existing water pipeline, Fort Bliss can better meet current and future national security needs.

### Location of McGregor Range



## About McGregor Range

*Following is an overview of missions at McGregor Range, according to publicly available information on [globalsecurity.org](http://globalsecurity.org).*

McGregor Range is an integral part of the U.S. Army Air Defense Artillery Center and Fort Bliss. Mission activities conducted on McGregor Range include training to maintain the operational readiness of active duty, reserve, and National Guard units through various training, operations and field exercises, and testing.

McGregor Ranges include McGregor Range, Meyer Small Arms Range, SHORAD Range, and Orogrande Range. Each of the ranges has an appropriate complement of range support facilities. McGregor Range Base Camp is the home of the USA CAS Battalion. In addition to housing the battalion, organizational support facilities, and all range control functions, McGregor Range Base Camp can billet and mess over 700 personnel. Orogrande Base Camp has 2 dining facilities, a single maintenance facility, and the ability to billet 800 personnel.

McGregor Range Complex contains 26 air defense missile firing sites (both static and field) which support training, annual service practice (ASP) and tactical missile firings for U.S. and allied units. Within the McGregor Range complex, there is the capability to support the extended range firings of the Multiple Launch Rocket System (MLRS). In the northern area of McGregor Range is Wilde Benton air strip. Wilde Benton is a 7,800 foot hard-packed surfaced airstrip capable of handling aircraft up to and including C-130 and C-17. There are six Nap-Of-the-Earth (NOE) helicopter training courses that are used to train pilots on low-level tactical flying under varying tactical conditions. The Cane Cholla helicopter gunnery range provides helicopter pilots the capability to conduct realistic tactical gunnery and flight training.

Meyer Range Complex consists of 18 firing ranges for small arms familiarization and qualification. Two of the ranges are equipped with the Remote Electronic Target System (RETS). Meyer Range Complex also contains grenade ranges, an NBC chamber, a light anti-tank range, an individual tactical training (ITT) range, and a pistol qualification range. SHORAD Range has 16 firing points for forward area air defense and laser weapons systems. This range also supports combined arms operational testing.

While some training land is located within the Main Cantonment Area to support unit and classroom training near the administrative and maintenance facilities, the majority of the FTXs associated with readiness training is conducted on the Fort Bliss Training Complex. Field exercises include various combinations of training, field operations, communications, command and control, simulated enemy contact, camouflage, smoke generation, and weapons firings. With five air defense brigades assigned to Fort Bliss, use of McGregor Range training areas is paramount to maintaining combat readiness. This includes use for tactical deployment, air defense operations, and air defense firing sites

for missile firings. Other typical use of the Fort Bliss Training Complex includes the Mobilization Army Training Center (MATC) for 5 to 10 weeks per year to support training of reserve and National Guard units. U.S. Marine Corps (USMC) Hawk training also is conducted on the range complex. Throughout the year, FTXs are conducted on McGregor Range by units that are located at Fort Bliss and at other Army and service installations.

Each year Joint Training Exercises (JTXs) are held at Fort Bliss. The most notable of these is the Roving Sands exercise. Roving Sands is a JTX coordinated by the Chairman, U.S. Joint Chiefs of Staff (USJCS), scheduled by the U.S. Atlantic Command, and sponsored by FORSCOM. This JTX is the only exercise that actually plans and executes multi-service integrated air defense operations that involve all four military armed services. Participation in Roving Sands has increased from approximately 10,000 personnel in 1994 to 18,000 in 1996 and 20,000 in 1997, and includes troops from the U.S., Canada, Netherlands, United Kingdom, and Germany. Field training was conducted for approximately 2 weeks following a 1-week deployment period and concluded with a 1-week redeployment of forces. In 1998, the Roving Sands exercise was reduced in scale from previous years because of the build-up of U.S. forces in the Persian Gulf. In April, approximately 5,000 to 6,000 troops gathered in the El Paso area for the exercise. A process to select exercise sites on McGregor Range has been incorporated in the planning of all Roving Sands exercises. The site-selection process emphasizes avoidance or minimization of adverse impacts to breeding birds and mammals, threatened or endangered species, soil, water supplies, historic resources, and other significant resources. Ground activities are limited to established training ranges, and sites that have been cleared for historic resources and endangered species on McGregor Range.

Each year following Roving Sands, a live Firing Exercise (FIREX) occurs. This FIREX is the largest density of missile firing at McGregor Range and usually lasts for 1 week, with over 6 units participating. In addition to the Army ADA brigades, USMC, German, and Dutch units typically fire 4 types of missiles in the following approximate quantities: 8 to 10 Hawk missiles; 14 to 15 Patriot missiles; 56 to 60 Stinger missiles; and 8 to 10 Roland missiles.

Danish, Belgian, German, Japanese, and other allied air defense units have conducted annual service practices on the Fort Bliss Training Complex for over 30 years.

## ATTACHMENT G - Fit with National Defense Strategy.

Following are 2022 key priorities, objectives and themes outlined in communications by the DoD on the Nation Defense Strategy and specific areas where this project and Fort Bliss and McGregor Range missions fit with the National Defense Strategy (NDS).

### NDS Priorities

1. Defending the homeland, paced to the growing multi-domain threat posed by the PRC
2. Deterring strategic attacks against the United States, Allies, and partners
3. Deterring aggression, while being prepared to prevail in conflict when necessary, prioritizing the PRC challenge in the Indo-Pacific, then the Russia challenge in Europe
4. Building a resilient Joint Force and defense ecosystem.

Fort Bliss and McGregor Range together provide a unique “convening” asset that brings together all branches of the Armed Forces for training exercises and also brings NATO allies together for joint training. Fort Bliss and its training ranges epitomize the concept of the defense ecosystem mentioned in the fourth priority. While much of that ecosystem spans the nation and globe, Fort Bliss is one of the few places where there is direct in-person coordination, engagement, and training.

### NDS Goals

- Integrated deterrence entails developing and **combining our strengths to maximum effect, by working seamlessly across warfighting domains**, theaters, the spectrum of conflict, other instruments of U.S. national power, and our unmatched network of Alliances and partnerships. Integrated deterrence is enabled by combat-credible forces, backstopped by a safe, secure, and effective nuclear deterrent.
- Campaigning will strengthen deterrence and enable us to gain advantages against the full range of competitors’ coercive actions. The United States will operate forces, synchronize broader Department efforts, and align Department activities with other instruments of national power, to undermine acute forms of competitor coercion, complicate competitors’ military preparations, and **develop our own warfighting capabilities together with Allies and partners.**

- Building enduring advantages for the future Joint Force involves undertaking reforms to accelerate force development, getting the technology we need more quickly, and making investments in the extraordinary people of the Department, who remain our most valuable resource.

Similar to strengths outlined in the priorities above, Fort Bliss and the McGregor Range missions fit well with the NDS goals and contribute to development of warfighting capabilities with Allies and partners,” and “working seamlessly across warfighting domains.”

## **NDS Themes**

The following themes are mentioned that show alignment between this project, the missions of Fort Bliss; and McGregor Range and the NDS.

- “The Department will take necessary actions to increase **resilience**...”
- “Mutually-beneficial **Alliances and partnerships** are an enduring strength for the United States, and are critical to achieving our objectives...”
- “This requires a Joint Force that is lethal, **resilient, sustainable**, survivable, agile, and responsive.”

The proposed pipeline project delivering increased water quantities for current and future McGregor Range missions is all about resilience, sustainability and fostering the alliances and partnerships through training opportunities.

## ATTACHMENT H – Dual Community/Military Benefit

### **Shared Alignment Benefits City Growth Pipeline**

New residential, commercial, and industrial development planned in the Northeast has necessitated additional water and wastewater infrastructure. By having a shared alignment - separate trenches - for both the McGregor Range Waterline (most of City portion) and a new City utility pipeline, the following efficiencies can be achieved:

- A common survey for both projects
- Utilization of a single contractor
- One-time mobilization
- One-time pavement repair requirements.

The City's Northeast new water pipeline has a cost estimate of more than \$3 million, and engineers anticipate a 15% savings as a result of the shared alignment that will provide a savings for the City and ratepayers.

Vista del Norte is the name of a new planned development that will be served by the new City pipeline. The Vista del Norte land study shows 2200 lots. These lots will be sold for homes and businesses that will return tax revenue to the city, county, and school district.

Additionally, the City line will be able to serve future industrial and manufacturing sites. The Borderplex Alliance, the lead regional organization for economic development and recruitment of new businesses to El Paso, has entered into discussions with several manufacturing companies who are considering the Northeast properties as new locations to establish manufacturing operations. Having new water infrastructure in place becomes a selling point to attract industry, which also can bring jobs and other economic benefits to the community.

### **Water Infrastructure Creates Economic Benefits**

In 2017, the Value of Water Campaign produced *The Economic Benefits of Investing in Water Infrastructure* report. The study reported that if \$123 billion were invested in water infrastructure in the U.S., it would lead to over \$220 billion in total annual economic activity to the country. Using this formula, a \$1 million investment would produce \$1.78 million in economic activity. The capital cost of the first phase of the McGregor Range waterline replacement project is \$7,472,000, which would produce \$13,300,160 worth of economic activity.

The report also states that a \$1 million investment in water infrastructure is estimated to generate over 15 jobs throughout the economy. Of the 15 jobs, 6 (or 40%) would be

generated directly to support the design and construction of the infrastructure. To apply this to the McGregor Range Waterline Replacement Project – Phase 1, the \$7,472,000 investment will translate into 111 jobs with about 44 of these generated to support the design and construction and 67 generated because of economic activity directly related to the project.

Total Capital Cost	Economic Impact of McGregor Range Waterline Replacement – Phase 1	Total Jobs Created in the Economy
\$7,472,000	\$13,300,160	111

### **Fort Bliss Contributions to El Paso and Texas Economy**

The Texas Comptroller of Public Accounts analyzed the impact on the state’s economy of the U.S. military installations within Texas at the request of the Texas Military Preparedness Commission. The Comptroller estimated the following economic benefits of Fort Bliss, based on 2019 data.

Fort Bliss contributes \$25.6 billion to the Texas economy, and much of that benefits El Paso.

Metric	Value
Total direct employment	47,045
Gross Domestic Product (GDP)	\$15.6 billion
Disposable personal income	\$8.1 billion

The enlargement of the water line will enable expansion of missions that will increase employment, GDP, disposable person income and overall economic impact.



Legislation Text

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File #: 22-1104, Version: 1

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**CITY OF EL PASO, TEXAS  
LEGISTAR AGENDA ITEM SUMMARY FORM**

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.*

*No Title's, No emails. Please use ARIAL 10 Font.*

**All Districts**

Animal Services Department, Terry Kebschull, (915) 212-8742

**AGENDA LANGUAGE:**

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.*

Discussion and action that the City Manager be authorized to sign an agreement between the City of El Paso and the El Paso Veterinary Medical Association (EPVMA) for the City of El Paso to transfer \$1.5 million to the EPVMA to promote overall community health by increasing spaying and neutering pets to promote a healthy and sustainable animal community in the City.



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

**AGENDA DATE:**

**PUBLIC HEARING DATE:**

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

**DISTRICT(S) AFFECTED:**

**STRATEGIC GOAL:**

**SUBGOAL:**

**SUBJECT:**

*APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.*

**BACKGROUND / DISCUSSION:**

*Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?*

**PRIOR COUNCIL ACTION:**

*Has the Council previously considered this item or a closely related one?*

**AMOUNT AND SOURCE OF FUNDING:**

*How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?*

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_\_\_\_ YES \_\_\_\_ NO**

**PRIMARY DEPARTMENT:**

**SECONDARY DEPARTMENT:**

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

**DEPARTMENT HEAD:** 

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

## **RESOLUTION**

**WHEREAS**, the City of El Paso and the El Paso Veterinary Medical Association (“EPVMA”) desire to work together to fulfill the community’s veterinary needs, including but not limited to minor surgeries, injuries, x-rays, abrasions, and spaying and neutering pets; and

**WHEREAS**, many of the veterinarians practicing in the City of El Paso are members of EPVMA; and

**WHEREAS**, one of the missions of the EPVMA is to support cross-organization animal programs that benefit the entire community; and

**WHEREAS**, Title 7.12.020 requires all dogs and cats over the age of four months that are transferred to a new owner from the shelter to be spayed or neutered; and

**WHEREAS**, the City of El Paso wishes to transfer \$1.5 million to the EPVMA to support El Paso Animal Services and pet owners with the cost of veterinary needs including but not limited to minor surgeries, injuries, x-rays, abrasions, and spaying and neutering to support, nurture, and promote overall public health by reducing disease in the community including but not limited to rabies control and the overpopulation of animals; and

**WHEREAS**, City Council finds the Agreement serves a public purpose, generates adequate consideration in exchange for the expenditure, and there is sufficient controls and consideration to enter into the Agreement.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

THAT the City Manager be authorized to sign an Agreement between the CITY OF EL PASO and the EL PASO VETERINARY MEDICAL ASSOCIATION (EPVMA) for the City of El Paso to transfer \$1.5 million to the EPVMA to promote overall community health by increasing spaying and neutering pets to promote a healthy and sustainable animal community in the City.

**(Signatures on the following page)**

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF EL PASO**

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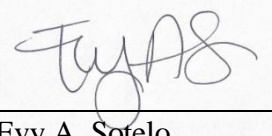
Oscar Leaser  
Mayor

**ATTEST:**

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Laura D. Prine  
City Clerk

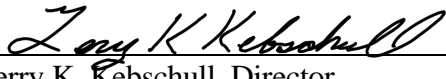
**APPROVED AS TO FORM:**



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Evy A. Sotelo  
Assistant City Attorney

**APPROVED AS TO CONTENT:**



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Terry K. Kebschull, Director  
Animal Services Department

STATE OF TEXAS           )  
  )  
COUNTY OF EL PASO    )

**AGREEMENT**

**THIS AGREEMENT**, entered into this \_\_\_\_ day of August, 2022 by and between the CITY OF EL PASO (the "City") and EL PASO VETERINARY MEDICAL ASSOCIATION ("EPVMA").

**WHEREAS**, the City of El Paso and the El Paso Veterinary Medical Association ("EPVMA") desire to work together to fulfill the community's veterinary needs, including but not limited to spaying and neutering pets; and

**WHEREAS**, many of the veterinarians practicing in the City of El Paso are members of EPVMA; and

**WHEREAS**, the City of El Paso wishes to transfer \$1.5 million to the EPVMA to support El Paso Animal Services and pet owners with the cost of veterinary needs including but not limited to minor surgeries, injuries, x-rays, abrasions, and spaying and neutering to support, nurture, and promote overall public health by reducing disease in the community including but not limited to rabies control and the overpopulation of animals; and

**WHEREAS**, City Council finds the Agreement serves a public purpose, generates adequate consideration in exchange for the expenditure, and there is sufficient controls and consideration to enter into the Agreement.

**NOW, THEREFORE**, the parties hereby agree as follows:

1. **PURPOSE.** The purpose of this Agreement is to transfer \$1.5 million to the EPVMA to support pet owners with the cost of veterinary needs including but not limited to minor surgeries, injuries, x-rays, abrasions, and spaying and neutering.

2. **EPVMA OBLIGATIONS.**

2.1 EPVMA shall inform its veterinary members of the availability of funds to assist El Paso Animal Services and indigent pet owners with the cost of veterinary needs. Pet owners will be identified by the City and in turn, sent to EPVMA for services to be funded by this Agreement.

2.2 EPVMA will be informed by the City and the Animal Services Department of

particular pet owners who require assistance with veterinary needs. These pet owners will be directed to a veterinary member of the EPVMA.

- 2.3 EPVMA shall inform its veterinary members of the deadline of 30 days to provide to EPVMA: 1) pet owners' information; 2) services rendered, 3) cost of services rendered, and 4) reference number provided by EPAS to be used for accounting purposes.
- 2.4 EPVMA shall forward information provided by its veterinarian members to the City within 10 days of receiving said information.

### 3. **CITY'S OBLIGATIONS.**

- 3.1 The City will, on a case by case basis, send pet owners to EPVMA for assistance with veterinary needs as determined by the City. And the City will transfer funds as needed.
- 3.2 The City will, on a case by case basis, send City owned pets to EPVMA for assistance with veterinary needs as determined by the City. And the City will transfer funds as needed.
- 3.3 The City shall receive from EPVMA information describing the usage of the funds by EPVMA's member veterinarians.

- 4. **TERM.** This Agreement shall be in effect for a one-year period, commencing \_\_\_\_\_, 2022 and ending \_\_\_\_\_, 2023. The parties concur that this Agreement shall automatically renew annually unless one of the parties terminates it in accordance with the termination provisions.

- 5. **INDEPENDENT CONTRACTORS.** EPVMA and the City are independent legal entities. Nothing in this Agreement shall be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither EPVMA nor the City nor any of their respective agents or employees shall control or have any right to control the activities of the other party in carrying out the terms of this Agreement.

### 6. **TERMINATION.**

- 6.1 Either party may terminate this Agreement at any time, with or without cause, by providing at least thirty (30) days advance written notice of the termination date to the other party.
- 6.2 In the case a party commits an event of default, the non-defaulting party may terminate the Agreement. The non-defaulting party must provide the defaulting party with



written notice of the default, and must allow the defaulting party a 10-day cure period which shall begin on the date of the defaulting party's receipt of said notice. If the defaulting party is not able to cure the default in that 10-day period, this Agreement shall immediately terminate, unless the defaulting party informs the non-defaulting party in writing prior to the end of the 10-day cure period that the defaulting party cannot cure the default within the 10-day period and that the defaulting party shall make its best effort to cure the default within the next 20 days beginning on the date of the written notice from the defaulting party. If the default is not cured by the end of that 20-day period, this Agreement shall terminate.

- 6.3 Such termination will have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination.

## **7. INSURANCE.**

- A. EPVMA will not direct any work or funds to any members that do not have the following insurance policies.

1. **LIABILITY INSURANCE.** Liability Insurance from a solvent company authorized to do business in the State of Texas. The liability insurance must provide coverage for the Contractor and its employees in the minimum amounts of \$1,000,000.00 per occurrence for bodily injury or wrongful death and One Million Dollars \$1,000,000 per occurrence for property damage. The Contractor will ensure that the liability insurance provides coverage for premises liability, operations liability, products and completed operations liability, personal and advertising injury, contractual liability, broad form property damage liability, and independent contractor liability. If the Contractor is performing Work near any railroad or streetcar track, then the Contractor will provide liability insurance that provides railroad protective liability insurance in the amount of \$1,000,000 Bodily Injury/\$1,000,000 Property Damage Liability per occurrence
2. **WORKERS COMPENSATION.** If required by law, the Contractor will obtain a third-party policy of Workers' Compensation insurance coverage providing Statutory Benefits according to the Workers Compensation Act of the State of Texas and/or any other state or federal law as may be applicable to the work and will cover all of the persons engaged in the work.

3. **AUTO LIABILITY.** Automobile Liability Insurance covering all owned, hired, and non-owned motor vehicles used by Contractor, its employees, contractors or agents, in connection with the work being performed under this Agreement with limits of liability not less than \$1,000,000.00 for each occurrence Combined Single Limit for Bodily Injury and Property Damage.
  4. **PROFESSIONAL LIABILITY INSURANCE.** Professional Liability Insurance for the benefit of the City to cover the errors and omissions of the Contractor, its principals or officers, agents or employees in the performance of this Agreement with a limit of \$1,000,000.00 on a claims made basis.
- B. Contractor will maintain the insurance policies described above throughout the Term of this Agreement. The Contractor will ensure that all policies comply with the following:
1. The Contractor may provide the insurances required in this section in one or more policies of insurance, the form of which must be approved by the City's Risk Manager.
  2. Prior to performing any Work, the Contractor will provide the City copies of all insurance policies along with all endorsements and certificates of insurance.
  3. The Contractor will provide the City all certificates evidencing renewal or replacement of said policies of insurance at least 15 calendar days prior to the expiration or cancellation of any such policies.
  4. The issuer of any policy must have a certificate of authority to transact insurance business in the State of Texas. Each issuer must be responsible, reputable, and have financial capability consistent with the risks covered. The City may reject an issuer of an insurance policy in the City's sole discretion.
  5. Each policy, except those for Workers' Compensation, must name the City of El Paso (and their elected and appointed officials, officers, agents and employees) as Additional Insured parties on the original policy and all renewals or replacements during the term of this Agreement.
  6. Contractor will obtain the prior written approval of the City's Risk Manager for any deductibles, aggregate caps, and endorsements on any insurance policy required under this Agreement.



7. The Contractor will require the insurance policy issuer to provide the City 30 calendar days advance notice of any reduction in coverage under an insurance policy.
8. Each policy must expressly state that it may not be canceled or non-renewed unless there are 30 calendar days advance notice of cancellation or intent not to renew is given in writing to the City's Purchasing Manager by the insurance company.
9. Each policy must contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the City, their elected and appointed officials, officers, agents or employees.
10. Each policy must contain an endorsement that such policy is primary insurance to any other insurance available to the Additional Insured with respect to claims arising hereunder and that the insurance applies separately to each insured.

8. **INDEMNIFICATION.** EPVMA SHALL INDEMNIFY, DEFEND AND HOLD THE CITY AND ITS OFFICERS, AGENTS, VOLUNTEERS AND EMPLOYEES COMPLETELY HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, SUITS, CLAIMS, JUDGMENTS, FINES OR DEMANDS ARISING BY REASON OF INJURY OR DEATH OF ANY PERSON OR DAMAGE TO ANY PROPERTY, INCLUDING ALL REASONABLE COSTS FOR INVESTIGATION AND DEFENSE THEREOF (INCLUDING, BUT NOT LIMITED TO ATTORNEY FEES, COURT COSTS AND EXPERT FEES), OF ANY NATURE WHATSOEVER ARISING OUT OF OR INCIDENT TO THIS CONTRACT, WHICH ARE THE RESULT OF ACTS OF NEGLIGENCE OF EPVMA OR EPVMA'S AGENTS OR EMPLOYEES. EPVMA SHALL GIVE TO THE CITY REASONABLE NOTICE OF ANY SUCH CLAIMS OR ACTIONS. EPVMA SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS CONTRACT.

9. **GENERAL.**

- 9.1 NOTICE. Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party. Written notice to the City shall be directed to:

Tommy Gonzalez, City Manager



City Hall  
P.O. Box 1890  
El Paso, Texas 79950-1890

Copy to: Terry K. Kebschull, Director  
Animal Services Department  
5001 Fred Wilson  
El Paso, Texas 79906

Written notice to the El Paso Veterinary Medical Association shall be directed to:

Eric Boehm  
Executive Director  
El Paso Veterinary Medical Association  
P.O. Box 971412  
El Paso, Texas 79997

- 9.2 SEVERABILITY. In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.
- 9.3 SUCCESSION. All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the City and the EPVMA and their successors, assigns, legal representatives, heirs, executors and administrators.
- 9.4 LAW GOVERNING AGREEMENT. The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts in El Paso County, Texas.
- 9.5 NO WAIVER BY CITY. No failure by the City to insist upon the strict performance of any covenant, provision, term or condition of this Agreement, or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, provision, term or condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.
- 9.6 ASSIGNMENT. Neither party may assign this Agreement without the prior written consent of the other party, and such consent will not be unreasonably withheld.
- 9.7 HEADINGS. The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

- 9.8 COMPLIANCE WITH LAWS. EPVMA agrees that all services provided pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, EPVMA reserves the right to notify City in writing of any suggested modifications to the Agreement in order to remain in compliance with such law, rule or regulation.
- 9.9 FORCE MAJEURE. The time within which EPVMA shall be required to perform any act under this Agreement shall be extended by a period of time equal to the number of days due to a force majeure. The term “force majeure” shall mean delays due to Acts of God, inability to obtain governmental approvals, governmental restrictions, war, act of terrorism, civil disturbances, fire, unavoidable casualty, or other similar causes beyond the control of EPVMA. Notwithstanding anything contained anywhere else in this Agreement, EPVMA shall not be excused from performance of any of its obligations under this Agreement by the negligence or malfeasance of its directors, officers, or employees or by mere economic hardship.
- 9.10 LOCATION OF PERFORMANCE. The services described in this Agreement shall be performed in the City and County of El Paso, State of Texas.
- 9.11 ENTIRE AGREEMENT; COUNTERPARTS; AMENDMENT. This Agreement constitutes the entire contract between the City and EPVMA regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document. No amendments to this Agreement will be effective unless made in writing and signed by duly authorized representatives of both parties.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands this \_\_\_\_ day of August, 2022.

*(Signatures follow on next page)*

STATE OF TEXAS           )  
  )  
COUNTY OF EL PASO    )

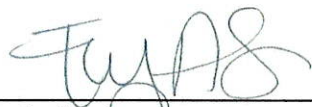
AGREEMENT

*Signature Page*


**CITY OF EL PASO**

\_\_\_\_\_  
Tommy Gonzalez  
City Manager


**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Evy A. Sotelo  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Terry K. Kebschull, Director  
Animal Services Department

**EL PASO VETERINARY MEDICAL ASSOCIATION**

  
\_\_\_\_\_  
Name Printed: Eric T. Boehm, P.M.P., M.M.M., C.A.G.  
Title: Executive Director

**General Counsel, EPVMA**

\_\_\_\_\_  
Name Printed: \_\_\_\_\_  
Title: \_\_\_\_\_