

**CITY OF EL PASO, TEXAS  
REQUEST FOR COUNCIL ACTION**

**DEPARTMENT:** Development Services

**AGENDA DATE:** September 15, 2009

**CONTACT PERSON/PHONE:** Mathew McElroy, ext 4193

**DISTRICTS AFFECTED:** All

**SUBJECT:**

A Resolution that the City Manager be authorized to sign a Second Amendment to Professional Services Contract Solicitation No. 2008-010R by and between the City of El Paso and Science Applications International Corporation (SAIC), to amend the Contract to provide for additional services, to increase the contract award by \$156,777.19 for payment of said additional services resulting in a total contract award amount of \$1,039,176.51, and to extend the overall period of performance and receipt of project deliverables, as specified in the contract amendment. All costs will be covered by the City's Office of Economic Adjustment Grant funds with no fiscal impact to the City's general fund.

**BACKGROUND/DISCUSSION:**

See attached.

**PRIOR COUNCIL ACTION:**

Yes.

**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?**

All costs will be covered by the City's Office of Economic Adjustment Grant funds with no fiscal impact to the City's general fund.

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

**DEPARTMENT HEAD:** Patricia D. Adatao

(Example: If RCA is initiated by Purchasing, client department should sign also)  
*Information copy to appropriate Deputy City Manager*

APPROVED FOR AGENDA:

CITY MANAGER: \_\_\_\_\_ DATE: \_\_\_\_\_

## **RESOLUTION**

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

That the City Manager be authorized to sign a Second Amendment to Professional Services Contract Solicitation No. 2008-010R by and between the City of El Paso and Science Applications International Corporation (SAIC), to amend the Contract to provide for additional services related to presentation and housing analysis activities, to increase the contract award by \$156,777.19 for payment of said additional services resulting in a total contract award amount of \$1,039,176.51, and to extend the overall period of performance and receipt of project deliverables, as specified in the contract amendment. All costs will be covered by the City's Office of Economic Adjustment Grant funds with no fiscal impact to the City's general fund.

**APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.**

THE CITY OF EL PASO:

\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marie A. Taylor  
Assistant City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Mathew McElroy,  
Deputy Director - Planning  
Development Services Department

**SECOND AMENDMENT TO PROFESSIONAL SERVICES CONTRACT  
SOLICITATION NO. 2008-010R BETWEEN THE CITY OF EL PASO AND SCIENCE  
APPLICATIONS INTERNATIONAL CORPORATION (SAIC)**

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This Second Amendment is made this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the **City of El Paso**, a municipal corporation and home-rule city of the State of Texas (“CITY”) and **Science Applications International Corporation (SAIC)**, a company doing business in the State of Texas (“CONSULTANT”).

**WHEREAS**, El Paso City Council by motion on March 25, 2008 awarded Solicitation No. 2008-010R for a total amount of \$846,545.57 to Consultant for services to prepare a Regional Growth Management Plan (the “RGMP”) and on even date the City Manager entered into a Professional Services Contract with Consultant for said services (the “Contract”); and

**WHEREAS**, on April 14, 2009, the CITY and CONSULTANT first amended the Contract to provide for additional public outreach services and increased the total amount of the Contract to \$882, 399.32; and

**WHEREAS**, CITY and CONSULTANT now desire to amend the Contract to provide for additional services related to presentation and housing analysis activities, to increase the contract award for payment of said additional services by \$156,777.19 resulting in a total contract award amount of \$1,039,176.51, and to extend the overall period of performance and receipt of project deliverables, as specified herein.

**NOW, THEREFORE**, the parties agree to amend the Contract as follows:

1. Attachment “A”, Scope of Services is revised to add Section Q. Additional Presentation Services, at page A-34, to read as follows:

**Q. Additional Presentation Services**

1. CONSULTANT will provide those services to create and present an El Paso Housing Forum II, which will bring developers, builders and financiers of multifamily projects from around the region and country to El Paso, to be held on or about October 26, 2009 for about 300 attendees who will be introduced to new multifamily housing development incentives currently being developed for approval by City Council as well as those approved in 2009, information on the local market development process, and other available programs. The selection of the hotel, etc. will be the responsibility of CONSULTANT. CONSULTANT will not provide travel or food service to attendees.

2. CONSULTANT will prepare and deliver oral presentations of the major findings of the Regional Growth Management Plan to the City Manager and selected staff, to the City Council, and to the Mayor and selected personnel. The presentation will include both physical and electronic versions of the presentation. These presentations will be provided during the same week as the El Paso Housing Forum II.

3. CONSULTANT will provide a process document, housing study project (the "Housing Study Project"), in two phases.

(a) First, CONSULTANT will perform a review and analysis of federal, state, and local housing programs that could be used for the construction and operation of affordable and market housing suitable for lease or purchase for Army personnel in El Paso ('Phase I Study'). CONSULTANT will obtain and analyze data on Army personnel at Fort Bliss; draft findings and recommendations and deliver to El Paso and Fort Bliss for review and comment, which will include a process timeline for developers; revise and finalize report based on comments; submit final to CITY and be ready for distribution at the El Paso Housing Forum II or shortly afterward; This deliverable is due no later than "45-Days" following the site orientation visit in El Paso.

(b) Second, CONSULTANT will conduct financial analysis of three housing development scenarios utilizing information collected, develop a financial model to analyze three scenarios including other military markets (such as Ft. Riley) based on different combinations of public and private funding sources and different mix of housing and population types to determine overall costs and feasibility ("Phase II Study"). The financial model is expected to be completed within "30-Days" from the CITY's acceptance of the first phase analysis and report. CONSULTANT will brief the CITY on results of Phase I and Phase II studies.

2. Attachment "C", Price and Payment Schedule, is hereby amended to: revise the listing of sub-contractors to add NAHB Research Center and Alvarez & Marsal Real Estate Advisory Services, LLC at page C-2; and revise the comprehensive fee of project deliverables to \$1,039,176.51 at page C-1.

3. Attachment "B", Schedule of Activities and Major Milestones, is hereby amended to revise the delivery date of the final RGMP to December 31, 2009.

4. Page 2, Section 2.2, the first sentence is hereby amended to read as follows:

"This Contract shall commence upon the date of execution of this Contract and shall terminate two weeks after completion and acceptance of the final RGMP as defined in subsection 2.2 (A) of this Contract, but not later January 15, 2010."

5. Page 3, Section 3.1 is hereby amended to read as follows:

3.1 Payment to Consultant. The CITY shall pay to the CONSULTANT an amount not to exceed ONE MILLION THIRTY NINE THOUSAND ONE HUNDRED SEVENTY SIX AND 51/100 DOLLARS (\$1,039,176.51) for all professional services performed pursuant to this Contract, as further described in the Scope of Services attached hereto as **Attachment "A"**.

6. Page 4, Section 5.2 is hereby amended to add the following paragraph:

"With respect to any subcontractor used by CONSULTANT for the Phase I and Phase II housing study project (the "Housing Study Project"), the total liability of such subcontractor, whether a claim be in tort, contract or otherwise, shall not exceed the fees paid to such subcontractor in connection with such Housing Study Project except to the extent finally judicially determined by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from the gross negligence, willful misconduct or fraudulent behavior of subcontractor relating to such services. In no event shall subcontractor be liable for any consequential, special, indirect, incidental, punitive or exemplary loss, damage or expense relating to such Housing Study Project (including without limitation, loss of profit, data, business or goodwill or similar damages)."

7. Page 8, the second and third sentences of Section 8.1(D) are hereby amended to include subcontractors and Section 8.1(D) is restated as follows:

8.1 (D) The CONSULTANT warrants that the Services, and those of his subcontractor(s) will be performed in a professional manner in accordance with the applicable professional standards. Neither the CONSULTANT nor any of its subcontractors give any warranty, express or implied, as to the results of any recommendations made in any reports provided to the CITY under this Contract. Neither the CONSULTANT nor its subcontractors will be liable for any damages that result or are alleged to result from any recommendations or reports provided to the CITY under this Contract.

8. Page 11, Section 9.8 is hereby amended to add the following paragraph:

"With respect to the Phase I and Phase II housing study project (the "Housing Study Project") in the event that any advice, recommendations, projections, analyses, reports or work product prepared by a subcontractor and delivered to the CITY are used or adopted by the CITY in no event shall subcontractor's name or identity be used in connection therewith except as required by law. Neither subcontractor work product nor the services provided thereby (written or oral) are intended for the express or implied benefit of any third party."

Except as amended herein, the Contract between CITY and CONSULTANT shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, CITY and CONSULTANT have executed this Second Amendment to the Contract as of the date first written above.

**CITY OF EL PASO:**

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Joyce A. Wilson  
City Manager

**APPROVED AS TO FORM:**

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Marie A. Taylor  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

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Mathew McElroy  
Deputy Director- Planning  
Development Services Department

**SCIENCE APPLICATIONS INTERNATIONAL CORPORATION:**

By: \_\_\_\_\_  
Name (Printed): Michael S. Gossner  
Title: Senior Contracts Representative