

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

**DEPARTMENT:** Capital Improvement

**AGENDA DATE:** November 1, 2016

**CONTACT PERSON/PHONE:** Omar Moreno, P.E, CID Grant Funded Programs Director (915) 212-1838  
Bruce D. Collins, Purchasing & Strategic Sourcing Director, (915) 212-1181

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL: NO. #: 7 – Enhance and Sustain El Paso's Infrastructure Network**

**SUBJECT:**

That the City Manager be authorized to sign an agreement by and between the City of El Paso and **HNTB Corporation**, to perform to perform professional and program management services for a project known as “**MANAGEMENT OF TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) AND FEDERAL HIGHWAY ADMINISTRATION (FHWA) FUNDED PROGRAMS No. 2016-590R**” on a Work Authorization basis to be compensated pursuant to 48 C.F.R. Part 31, Federal Acquisition Regulations (FAR 31) based on the auditable overhead rate, on an hourly rate and unit prices, dependent on the funding received by the City for TxDOT and FHWA project and available City funds for an amount not to exceed Thirteen Million and No/100 Dollars (\$13,000,000), which City Council may increase as additional TxDOT and FHWA funding becomes available, for a term of forty eight (48) months with two (2) one-year options to extend to be exercised by the City Manager or Designee; and that a proposed budget will be provided when a Local Transportation Project Advance Funding Agreement for each project is present to City Council; 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 execution of the Agreement.

**BACKGROUND / DISCUSSION:**

This contract is to provide assistance in the development, implementation, and execution of federally and state funded projects. Services include program management, engineering services, land acquisition, and construction management for an initial period of forty-eight (48) months with two (2) additional one (1) year periods. The firm is to serve as an extension of, and in complete coordination with the City, and other outside consultants with respect to all current and future Federally and State funded projects.

The City anticipates that it will receive financial assistance from TxDOT for most activities resulting from this contract. The consultant will be obligated to assure that all work performed (and costs incurred) on a project receiving financial assistance are reimbursable.

**SELECTION SUMMARY:**

Solicitation was advertised on January 26, 2016 and February 2, 2016. The solicitation was posted on City website on January 26, 2016. The email (Purmail) notification was sent out on January 28, 2016. Total number of viewers is sixty-four (64). Three (3) proposals were received; all were local vendors.

**PROTEST**

No protest received for this requirement.

Protest received.

**COUNCIL REPRESENTATIVE BRIEFING:**

Was a briefing provided?  Yes or  No  
If yes, select the applicable districts.

- District 1
- District 2
- District 3
- District 4
- District 5
- District 6
- District 7
- District 8
- All Districts

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Funding will be on a per task basis from various sources.

**BOARD / COMMISSION ACTION:**

N/A

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

**DEPARTMENT HEAD:**



**COUNCIL PROJECT FORM  
(RESOLUTION)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda under **RESOLUTIONS** for the Council Meeting of **NOVEMBER 1, 2016**.

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

That the City Manager be authorized to sign an agreement by and between the City of El Paso and **HNTB Corporation**, to perform professional and program management services for a project known as "**MANAGEMENT OF TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) AND FEDERAL HIGHWAY ADMINISTRATION (FHWA) FUNDED PROGRAMS No. 2016-590R**" on a Work Authorization basis to be compensated pursuant to 48 C.F.R. Part 31, Federal Acquisition Regulations (FAR 31) based on the auditable overhead rate, on an hourly rate and unit prices, dependent on the funding received by the City for TxDOT and FHWA project and available City funds for an amount not to exceed Thirteen Million and No/100 Dollars (\$13,000,000), which City Council may increase as additional TxDOT and FHWA funding becomes available, for a term of forty eight (48) months with two (2) one-year options to extend to be exercised by the City Manager or Designee; and that a proposed budget will be provided when a Local Transportation Project Advance Funding Agreement for each project is present to City Council; 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 execution of the Agreement.

Department: Capital Improvements  
Districts(s): All

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*

**RESOLUTION**

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

That the City Manager be authorized to sign an agreement by and between the City of El Paso and **HNTB Corporation**, to perform professional and program management services for a project known as **“MANAGEMENT OF TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) AND FEDERAL HIGHWAY ADMINISTRATION (FHWA) FUNDED PROGRAMS No. 2016-590R”** on a Work Authorization basis to be compensated pursuant to 48 C.F.R. Part 31, Federal Acquisition Regulations (FAR 31) based on the auditable overhead rate, on an hourly rate and unit prices, dependent on the funding received by the City for TxDOT and FHWA project and available City funds, for an amount not to exceed Thirteen Million and No/100 Dollars (\$13,000,000) which City Council may increase as additional TxDOT and FHWA funding becomes available, for a term of forty eight (48) months with two (2) one-year options to extend to be exercised by the City Manager or Designee; and that a proposed budget will be provided to City Council when a Local Transportation Project Advance Funding Agreement for each project is presented; 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 execution of the Agreement.

**ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016.**

CITY OF EL PASO:

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

ATTEST:

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

APPROVED AS TO FORM

APPROVED AS TO CONTENT

\_\_\_\_\_  
Sol M. Cortez  
Assistant City Attorney

\_\_\_\_\_  
Omar Moreno, P.E.  
Director of CID Grant Funded Programs



## DEPARTMENT HEAD'S AGENDA ITEM CHECK LIST



Primary User Department:

Capital Improvement

Secondary User Department:

I have verified the following:

### Posting Language

- The accuracy of the agenda posting language, including addresses and the correct District number.

### Description

This contract is to provide assistance in the development, implementation, and execution of federally and state funded projects. Services include program management, engineering services, land acquisition, and construction management for an initial period of forty-eight (48) months with two (2) additional one (1) year periods. The firm is to serve as an extension of, and in complete coordination with the City, and other outside consultants with respect to all current and future Federally and State funded projects.

The City anticipates that it will receive financial assistance from TxDOT for most activities resulting from this contract. The

### Documentation

- All electronic and hard copy documents (resolutions, ordinance, contracts, leases, agreements) with all required signatures are attached to the agenda submittal and delivered to the City Clerk's Office. This includes the department head's signature, the City Attorney's signature (if required) and the other party's signature (if required).

### City Management Leadership

- I have cleared this item for placement through my supervisor in the City Manager's Office

Please select name

Khalil Zaied

Contacted

By Phone

In Person

By E-Mail

Date

Time

Board / Commission Action

- Not Applicable

Strategic Briefing Review

Date:

- I presented the Power Point for this item at SBR on
- Item was not required to be presented at SBR
- Draft Agenda prepared 30 - 60 days in advance

The Power Point has been revised to reflect the feedback received at SBR.

Briefing Request

- I or my staff member(s), have briefed the affected City Council members, specifically,

	<input type="checkbox"/>	Date	Time
ALL	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
Mayor Leeser	<input type="checkbox"/>	09/14/2016	1:30P
District #1	<input type="checkbox"/>	10/10/2016	2:54P
District #2	<input type="checkbox"/>	09/14/2016	11A
District #3	<input type="checkbox"/>	09/12/2016	3:30P
District #4	<input type="checkbox"/>	09/12/2016	3:30P
District #5	<input type="checkbox"/>	09/08/2016	12:00P
District #6	<input type="checkbox"/>	09/14/2016	12:30P
District #7	<input type="checkbox"/>	09/13/2016	3P
District #8	<input type="checkbox"/>	09/13/2016	10:30P

Source of Funding

- There is available funding for this item in the proper account. The amount of the item and the funding source are correct.

Department Head Signature

Date:



10/20/16

**2016-590R MANAGEMENT OF TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT)  
AND FEDERAL HIGHWAY ADMINISTRATION (FHWA) PROGRAMS  
COMMITTEE SCORE SHEET**

		<b>ATKINS NORTH AMERICA, INC.</b>	<b>HNTB CORPORATION</b>	<b>HUITT-ZOLLARS, INC.</b>
	<b>Points</b>	<b>EL PASO, TX</b>	<b>EL PASO, TX</b>	<b>EL PASO, TX</b>
<b>EVALUATION FACTOR A</b>				
<b>EXPERIENCE OF TEAM</b>				
A1. Experience in managing federal/state-funded programs.	20	17.67	17.33	14.67
A2. Experience in land acquisition, designing, and completing environmental studies for federal/state funded projects.	15	13.33	12.33	11.00
A3. Experience with construction management, inspection, and quality assurance plans, monthly reimbursement packages for federal/state funded projects	15	12.67	13.33	11.00
<b>Subtotal</b>	<b>50</b>	<b>43.67</b>	<b>42.99</b>	<b>36.67</b>
<b>EVALUATION FACTOR B</b>				
<b>UNDERSTANDING &amp; APPROACH TO THE SERVICES</b>				
B1. Understanding and approach to service	15	12.33	13.67	12.33
B2. Project Schedule	5	4.33	4.33	4.00
B3. Quality control to ensure reimbursements	5	4.00	4.00	4.33
<b>Subtotal</b>	<b>25</b>	<b>20.66</b>	<b>22.00</b>	<b>20.66</b>
<b>EVALUATION FACTOR C</b>				
<b>ABILITY TO PERFORM</b>				
C1. Experience of key staff as it relates to the required services	15	13.67	13.00	11.67
C2. Adequacy of resources/Availability	10	7.33	8.67	6.67
<b>Subtotal</b>	<b>25</b>	<b>21.00</b>	<b>21.67</b>	<b>18.34</b>
<b>TOTAL MAXIMUM POINTS</b>	<b>100</b>	<b>85.33</b>	<b>86.66</b>	<b>75.67</b>



# CITY OF EL PASO REQUEST FOR QUALIFICATIONS TABULATION FORM



**Bid Opening Date: FEBRUARY 24, 2016**

**Solicitation #: 2016-590R**

**Project Name: MANAGEMENT OF TEXAS DEPARTMENT OF  
TRANSPORTATION (TXDOT) AND FEDERAL HIGHWAY ADMINISTRATION (FHWA) PROGRAMS**

**Department: CAPITAL IMPROVEMENT**

<b>ATKINS NORTH AMERICA, INC.</b>	<b>EL PASO, TX</b>
<b>HNTB CORPORATION</b>	<b>EL PASO, TX</b>
<b>HUITT-ZOLLARS, INC</b>	<b>EL PASO, TX</b>
<b>RFQs VIEWED: 64</b>	<b>RFQs RECEIVED: 3</b>
<b>LOCAL RFQs RECEIVED: 3</b>	<b>NO BIDS: 0</b>

**NOTE: The information contained in this RFQ tabulation is for information only and does not constitute actual award/execution of contract.**

APPROVED: \_\_\_\_\_ /s/ \_\_\_\_\_

DATE: 3/4/16

1/26/2016 13:03	Hernandez, Cecilia	The PlanIt Room
1/26/2016 14:23	Contreras, Ramon	Emerald Infrastructu
1/26/2016 14:55	Calvo, Eduardo	HNTB Corporation
1/26/2016 15:35	Lujan, Rosie	ECM International
1/26/2016 16:32	Bid Clerk, Bid Clerk	Prime Vendor Inc.
1/26/2016 18:40	Management, Source	
1/26/2016 20:28	Deg, Maria	Contractors Register
1/26/2016 20:55	Frank, Watson	Advanced Starlight I
1/26/2016 21:38	Harper, Damon	Monhar Construction
1/26/2016 22:19	Kurt, Pitzer	BidNet
1/27/2016 2:47	Wang, Jon	Team Designers and A
1/27/2016 5:07	Kurt, Pitzer	BidNet
1/27/2016 5:19	Mallari, Herold	Deltek Inc.
1/27/2016 8:13	Swearingen, Clinton	Paragon Project Reso
1/27/2016 8:20	Wagner, Janice	
1/27/2016 8:22	Wagner, Janice	
1/27/2016 11:42	Lamoreaux, Mary	
1/27/2016 13:31	Morales, Victor	Freese And Nichols I
1/27/2016 15:01	England, Geoff	
1/27/2016 15:04	Cardenas, Jose	Moreno Cardenas
1/27/2016 20:55	Frank, Watson	Advanced Starlight I
1/27/2016 21:07	Kroeker, Kelvin	HNTB
1/27/2016 21:27	Silvas, Michael	
1/27/2016 22:19	Kurt, Pitzer	BidNet
1/28/2016 0:05	Wang, Jon	Team Designers and A
1/28/2016 5:12	Deg, Maria	Contractors Register
1/28/2016 6:06	Banquill, Lovely	
1/28/2016 6:50	SCHREPPFER, MICHAEL	TRC ENGINEERS
1/28/2016 7:03	Kroeker, Kelvin	HNTB
1/28/2016 9:39	Mendiola, Andrea	Kimley-Horn and Asso
1/28/2016 10:47	Steadman, Sid	Master Cuts Landscap
1/28/2016 11:20	Davidson, Sean	Hawke Aerospace
1/28/2016 13:19	Ortiz, Miriam	EPHCC
1/28/2016 16:27	Cardenas, Rossy	Danennbaum Engineeri
1/28/2016 17:36	Dominguez, Enrique	Clowe and Cowan
1/28/2016 17:37	kieffe, Mercedes	
1/28/2016 17:40	Seiler, Kellith	KESPE, LLC
1/28/2016 20:55	Frank, Watson	Advanced Starlight I
1/28/2016 21:09	Deg, Maria	Contractors Register
1/28/2016 22:19	Kurt, Pitzer	BidNet
1/28/2016 23:40	Wang, Jon	Team Designers and A
1/29/2016 5:30	Bid Clerk, Bid Clerk	Prime Vendor Inc.
1/29/2016 6:28	Scheel, Dawn	SAM-CS
1/29/2016 6:35	Wicker, John	AutoReturn
1/29/2016 8:27	Livingston, Margaret	ECl, INC
1/29/2016 8:38	Kroeker, Denise	Moreno Cardenas Inc.

1/29/2016 10:32	Swearingen, Clinton	Paragon Project Reso
1/29/2016 11:51	Kroeker, Denise	Moreno Cardenas Inc.
1/29/2016 12:43	Scheel, Dawn	SAM-CS
1/29/2016 20:56	Frank, Watson	Advanced Starlight I
1/29/2016 21:28	Bid Clerk, Bid Clerk	Prime Vendor Inc.
1/30/2016 1:37	Deg, Maria	Contractors Register
1/30/2016 1:43	Wang, Jon	Team Designers and A
1/30/2016 14:42	Bid Clerk, Bid Clerk	Prime Vendor Inc.
1/30/2016 20:55	Frank, Watson	Advanced Starlight I
1/30/2016 21:24	Deg, Maria	Contractors Register
1/31/2016 5:37	Wang, Jon	Team Designers and A
1/31/2016 5:42	Bid Clerk, Bid Clerk	Prime Vendor Inc.
1/31/2016 11:58	Bid Clerk, Bid Clerk	Prime Vendor Inc.
1/31/2016 13:06	Bid Clerk, Bid Clerk	Prime Vendor Inc.
1/31/2016 20:55	Frank, Watson	Advanced Starlight I
1/31/2016 22:13	Kurt, Pitzer	BidNet
2/1/2016 5:03	Deg, Maria	Contractors Register
2/1/2016 7:21	Wang, Jon	Team Designers and A
2/1/2016 7:43	Islam, Ashraf	AIA Engineers Ltd.
2/1/2016 8:01	Concha, David	CEA Group
2/1/2016 8:12	Goodwin, Anna	UTEP
2/1/2016 8:14	Goodwin, Anna	UTEP
2/1/2016 8:36	blake, gregory	
2/1/2016 12:30	Davis, Marcie	Davis Innovations, I
2/1/2016 15:43	blake, gregory	
2/1/2016 20:55	Frank, Watson	Advanced Starlight I
2/1/2016 21:20	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/1/2016 22:14	Kurt, Pitzer	BidNet
2/2/2016 1:38	Deg, Maria	Contractors Register
2/2/2016 5:44	Wang, Jon	Team Designers and A
2/2/2016 10:06	Crumpler, Suzanne	Dannenbaum Engineeri
2/2/2016 14:23	Serrano-Rivera, Blanca	TxDOT
2/2/2016 16:09	Calvo, Eduardo	HNTB Corporation
2/2/2016 20:38	Deg, Maria	Contractors Register
2/2/2016 20:56	Frank, Watson	Advanced Starlight I
2/2/2016 22:16	Kurt, Pitzer	BidNet
2/3/2016 0:57	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/3/2016 6:48	Wang, Jon	Team Designers and A
2/3/2016 13:05	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/3/2016 14:46	Epps, William	Sun City Shield Tech
2/3/2016 16:05	England, Geoff	
2/3/2016 20:29	Deg, Maria	Contractors Register
2/3/2016 20:55	Frank, Watson	Advanced Starlight I
2/3/2016 22:17	Kurt, Pitzer	BidNet
2/4/2016 7:25	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/4/2016 8:11	Banquil, Lovely	
2/4/2016 10:10	Kurt, Pitzer	BidNet

2/4/2016 14:45	Sarfati, Aaron	Muñoz And Company
2/4/2016 20:32	Kurt, Pitzer	BidNet
2/4/2016 20:59	Frank, Watson	Advanced Starlight I
2/4/2016 22:12	Kurt, Pitzer	BidNet
2/4/2016 22:52	Wang, Jon	Team Designers and A
2/5/2016 0:34	Deg, Maria	Contractors Register
2/5/2016 3:55	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/5/2016 20:11	Kurt, Pitzer	BidNet
2/5/2016 20:56	Frank, Watson	Advanced Starlight I
2/5/2016 22:50	Wang, Jon	Team Designers and A
2/5/2016 23:05	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/6/2016 1:46	Deg, Maria	Contractors Register
2/6/2016 12:57	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/6/2016 17:45	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/6/2016 20:49	Deg, Maria	Contractors Register
2/6/2016 20:55	Frank, Watson	Advanced Starlight I
2/6/2016 23:46	Wang, Jon	Team Designers and A
2/7/2016 4:00	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/7/2016 7:28	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/7/2016 20:13	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/7/2016 20:41	Deg, Maria	Contractors Register
2/7/2016 20:55	Frank, Watson	Advanced Starlight I
2/7/2016 21:43	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/7/2016 22:13	Kurt, Pitzer	BidNet
2/7/2016 22:27	Kurt, Pitzer	BidNet
2/7/2016 23:17	Wang, Jon	Team Designers and A
2/8/2016 15:19	Villalobos, Silverio	VILLAVERDE INC
2/8/2016 15:19	Kurt, Pitzer	BidNet
2/8/2016 15:37	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/8/2016 20:16	Wang, Jon	Team Designers and A
2/8/2016 20:55	Frank, Watson	Advanced Starlight I
2/8/2016 22:01	Kurt, Pitzer	BidNet
2/8/2016 22:14	Kurt, Pitzer	BidNet
2/9/2016 0:25	Deg, Maria	Contractors Register
2/9/2016 1:26	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/9/2016 8:59	Concha, Robert	ESSCO International
2/9/2016 15:52	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/9/2016 17:26	Calvo, Eduardo	HNTB Corporation
2/9/2016 19:05	Wang, Jon	Team Designers and A
2/9/2016 20:29	Deg, Maria	Contractors Register
2/9/2016 20:55	Frank, Watson	Advanced Starlight I
2/9/2016 21:57	Kurt, Pitzer	BidNet
2/9/2016 22:16	Kurt, Pitzer	BidNet
2/9/2016 22:56	Banquill, Lovely	
2/10/2016 5:34	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/10/2016 12:20	Jose, Castaneda	Power Wash Pro's Of
2/10/2016 14:35	Cardenas, Jose	Moreno Cardenas

2/10/2016 14:36	Cardenas, Jose	Moreno Cardenas
2/10/2016 15:10	Management, Source	
2/10/2016 16:09	Ortega, Benjamin	City of El Paso - En
2/10/2016 16:11	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/10/2016 19:06	Wang, Jon	Team Designers and A
2/10/2016 20:47	Deg, Maria	Contractors Register
2/10/2016 20:55	Frank, Watson	Advanced Starlight I
2/10/2016 22:11	Kurt, Pitzer	BidNet
2/10/2016 22:12	Kurt, Pitzer	BidNet
2/11/2016 9:30	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/11/2016 12:00	Hernandez, Cecilia	The PlanIt Room
2/11/2016 12:37	Mena, Linda	TxDOT
2/11/2016 12:46	Mena, Linda	TxDOT
2/11/2016 17:27	Seiler, Kelleth	KESPE, LLC
2/11/2016 17:32	Heredia, Jesus	SAndB Infrastructure
2/11/2016 17:36	blake, gregory	
2/11/2016 20:22	Wang, Jon	Team Designers and A
2/11/2016 20:55	Frank, Watson	Advanced Starlight I
2/11/2016 22:10	Kurt, Pitzer	BidNet
2/11/2016 22:13	Kurt, Pitzer	BidNet
2/12/2016 1:27	Deg, Maria	Contractors Register
2/12/2016 3:07	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/12/2016 4:55	Barthel, Luis	RRE
2/12/2016 6:54	Stewart, Dustin	Alliance Transportat
2/12/2016 7:37	randy, collier	Paragon Project Reso
2/12/2016 7:39	Kevin, Gillman	iSqFt
2/12/2016 7:42	Kevin, Gillman	iSqFt
2/12/2016 7:43	Kevin, Gillman	iSqFt
2/12/2016 7:52	Kevin, Gillman	iSqFt
2/12/2016 7:54	Kevin, Gillman	iSqFt
2/12/2016 7:56	Kevin, Gillman	iSqFt
2/12/2016 7:57	Kevin, Gillman	iSqFt
2/12/2016 7:57	Kevin, Gillman	iSqFt
2/12/2016 8:01	Kevin, Gillman	iSqFt
2/12/2016 8:02	Kevin, Gillman	iSqFt
2/12/2016 8:17	Kevin, Gillman	iSqFt
2/12/2016 8:25	kieffe, Mercedes	
2/12/2016 8:33	Nunez, Charlie	SUN CITY WINNELSON
2/12/2016 9:11	Swearingen, Clinton	Paragon Project Reso
2/12/2016 9:18	Herrera, Melchor	ECM International
2/12/2016 9:41	Chavez, Ruben	CEA Group
2/12/2016 16:58	Isabel, Vasquez	Huitt-Zollars
2/12/2016 19:25	Wang, Jon	Team Designers and A
2/12/2016 20:55	Frank, Watson	Advanced Starlight I
2/12/2016 22:11	Kevin, Gillman	iSqFt
2/13/2016 1:40	Deg, Maria	Contractors Register
2/13/2016 5:39	Bid Clerk, Bid Clerk	Prime Vendor Inc.

2/13/2016 8:48	Vargas, Herbert	CAndM Associates Inc
2/13/2016 19:43	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/13/2016 20:29	Deg, Maria	Contractors Register
2/13/2016 20:35	Wang, Jon	Team Designers and A
2/13/2016 20:55	Frank, Watson	Advanced Starlight I
2/14/2016 7:49	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/14/2016 18:28	Wang, Jon	Team Designers and A
2/14/2016 20:24	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/14/2016 21:47	Kurt, Pitzer	BidNet
2/14/2016 22:11	Kurt, Pitzer	BidNet
2/15/2016 1:58	Deg, Maria	Contractors Register
2/15/2016 7:03	Kevin, Gillman	iSqFt
2/15/2016 7:04	Kevin, Gillman	iSqFt
2/15/2016 7:52	Kevin, Gillman	iSqFt
2/15/2016 10:53	Luna, Hector	Black Stallion Const
2/15/2016 12:11	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/15/2016 18:58	Wang, Jon	Team Designers and A
2/15/2016 20:55	Frank, Watson	Advanced Starlight I
2/15/2016 21:54	Kevin, Gillman	iSqFt
2/15/2016 22:07	Kurt, Pitzer	BidNet
2/15/2016 22:09	Kevin, Gillman	iSqFt
2/15/2016 22:12	Kurt, Pitzer	BidNet
2/15/2016 22:41	Banquill, Lovely	
2/16/2016 0:47	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/16/2016 2:12	Deg, Maria	Contractors Register
2/16/2016 5:52	Kurt, Pitzer	BidNet
2/16/2016 7:53	Kevin, Gillman	iSqFt
2/16/2016 8:03	blake, gregory	
2/16/2016 9:00	Calvo, Eduardo	HNTB Corporation
2/16/2016 14:59	kieffe, Mercedes	
2/16/2016 18:41	Wang, Jon	Team Designers and A
2/16/2016 18:53	Harper, Damon	Monhar Construction
2/16/2016 20:06	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/16/2016 20:55	Frank, Watson	Advanced Starlight I
2/16/2016 22:08	Kurt, Pitzer	BidNet
2/16/2016 22:11	Kurt, Pitzer	BidNet
2/16/2016 22:20	Loera, Adrian	Del Norte Equipment
2/16/2016 23:45	Deg, Maria	Contractors Register
2/17/2016 3:15	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/17/2016 7:14	Kevin, Gillman	iSqFt
2/17/2016 7:53	Kevin, Gillman	iSqFt
2/17/2016 11:24	Management, Source	
2/17/2016 19:23	Wang, Jon	Team Designers and A
2/17/2016 20:02	Saiz, Samuel	
2/17/2016 20:55	Frank, Watson	Advanced Starlight I
2/17/2016 22:10	Kevin, Gillman	iSqFt
2/17/2016 23:36	Deg, Maria	Contractors Register

2/18/2016 0:37	Kurt, Pitzer	BidNet
2/18/2016 2:36	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/18/2016 7:49	Kevin, Gillman	iSqFt
2/18/2016 7:49	Kevin, Gillman	iSqFt
2/18/2016 8:11	ely, mary	atkins
2/18/2016 9:30	ely, mary	atkins
2/18/2016 9:48	kieffe, Mercedes	
2/18/2016 11:48	ely, mary	atkins
2/18/2016 14:18	Guerra, Anais	ENCON International
2/18/2016 14:27	Guerra, Anais	ENCON International
2/18/2016 15:52	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/18/2016 16:15	Gomez, Veronica	City of El Paso
2/18/2016 16:28	Goodwin, Anna	UTEP
2/18/2016 18:31	Bopp, A	
2/18/2016 20:40	Deg, Maria	Contractors Register
2/18/2016 20:55	Frank, Watson	Advanced Starlight I
2/18/2016 21:47	Kevin, Gillman	iSqFt
2/18/2016 21:47	Wang, Jon	Team Designers and A
2/18/2016 21:56	Kevin, Gillman	iSqFt
2/18/2016 22:11	Kurt, Pitzer	BidNet
2/19/2016 0:14	Kurt, Pitzer	BidNet
2/19/2016 2:28	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/19/2016 6:53	Kevin, Gillman	iSqFt
2/19/2016 7:06	Seiler, Kelleth	KESPE, LLC
2/19/2016 7:45	Islam, Ashraf	AIA Engineers Ltd.
2/19/2016 7:45	ely, mary	atkins
2/19/2016 7:53	Kevin, Gillman	iSqFt
2/19/2016 8:15	Kevin, Gillman	iSqFt
2/19/2016 8:25	Williams, Johnny	PSA Constructors Inc
2/19/2016 10:29	Kurt, Pitzer	BidNet
2/19/2016 10:34	Tarango, Christopher	Cultural Strategies
2/19/2016 10:41	Kevin, Gillman	iSqFt
2/19/2016 11:29	Sorenson, Kelly	Vision Consultants
2/19/2016 20:55	Frank, Watson	Advanced Starlight I
2/19/2016 23:01	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/20/2016 0:25	Deg, Maria	Contractors Register
2/20/2016 3:17	Wang, Jon	Team Designers and A
2/20/2016 16:05	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/20/2016 20:08	Deg, Maria	Contractors Register
2/20/2016 20:55	Frank, Watson	Advanced Starlight I
2/21/2016 2:59	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/21/2016 11:42	Wang, Jon	Team Designers and A
2/21/2016 15:05	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/21/2016 19:38	Deg, Maria	Contractors Register
2/21/2016 22:17	Kurt, Pitzer	BidNet
2/22/2016 0:22	Kurt, Pitzer	BidNet
2/22/2016 3:46	Bid Clerk, Bid Clerk	Prime Vendor Inc.

2/22/2016 7:00	blake, gregory	
2/22/2016 7:14	Kevin, Gillman	iSqFt
2/22/2016 7:26	Kevin, Gillman	iSqFt
2/22/2016 7:53	Kevin, Gillman	iSqFt
2/22/2016 10:04	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/22/2016 10:46	kieffe, Mercedes	
2/22/2016 13:52	Swearingen, Clinton	Paragon Project Reso
2/22/2016 15:17	Hernandez, Cecilia	The PlanIt Room
2/22/2016 20:00	Wang, Jon	Team Designers and A
2/22/2016 20:05	Deg, Maria	Contractors Register
2/22/2016 21:57	Kevin, Gillman	iSqFt
2/22/2016 22:04	Kevin, Gillman	iSqFt
2/22/2016 23:40	Frank, Watson	Advanced Starlight I
2/23/2016 0:17	Kurt, Pitzer	BidNet
2/23/2016 3:27	Banquill, Lovely	
2/23/2016 7:53	Kevin, Gillman	iSqFt
2/23/2016 13:58	Rivera, Roxanna	Huitt-Zollars
2/23/2016 14:11	kieffe, Mercedes	
2/23/2016 14:38	Chavez, Ruben	CEA Group
2/23/2016 16:02	Kroeker, Kelvin	HNTB
2/23/2016 16:56	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/23/2016 20:25	Deg, Maria	Contractors Register
2/23/2016 20:55	Frank, Watson	Advanced Starlight I
2/23/2016 22:18	Kurt, Pitzer	BidNet
2/24/2016 0:17	Kurt, Pitzer	BidNet
2/24/2016 2:44	Wang, Jon	Team Designers and A
2/24/2016 3:09	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/24/2016 8:53	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/24/2016 10:24	Kevin, Gillman	iSqFt
2/24/2016 11:19	blake, gregory	
2/24/2016 13:12	Carlos, Valdez	ATKINS
2/24/2016 13:13	Carlos, Valdez	ATKINS
2/24/2016 14:22	Morris, Alex	Terram Solutions LLC
2/24/2016 14:25	Carlos, Valdez	ATKINS
2/24/2016 14:26	Carlos, Valdez	ATKINS
2/24/2016 14:31	Norma, Huerta	
2/24/2016 16:05	Kevin, Gillman	iSqFt
2/24/2016 16:05	Kevin, Gillman	iSqFt
2/24/2016 20:55	Frank, Watson	Advanced Starlight I
2/24/2016 21:24	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/24/2016 22:17	Kurt, Pitzer	BidNet
2/24/2016 23:46	Kurt, Pitzer	BidNet
2/25/2016 1:06	Deg, Maria	Contractors Register
2/25/2016 2:45	Wang, Jon	Team Designers and A
2/25/2016 7:12	Kevin, Gillman	iSqFt
2/25/2016 7:12	Kevin, Gillman	iSqFt
2/25/2016 7:54	Kevin, Gillman	iSqFt

2/25/2016 7:54	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/25/2016 8:17	Seiler, Kelleth	KESPE, LLC
2/25/2016 16:21	Swearingen, Clinton	Paragon Project Reso
2/25/2016 16:51	Jose, Castaneda	Power Wash Pro's Of
2/25/2016 20:56	Frank, Watson	Advanced Starlight I
2/25/2016 21:24	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/25/2016 22:18	Kurt, Pitzer	BidNet
2/25/2016 23:35	Kurt, Pitzer	BidNet
2/25/2016 23:43	Deg, Maria	Contractors Register
2/26/2016 0:57	Wang, Jon	Team Designers and A
2/26/2016 7:35	Kevin, Gillman	iSqFt
2/26/2016 7:36	Kevin, Gillman	iSqFt
2/26/2016 7:53	Kevin, Gillman	iSqFt
2/26/2016 11:24	garcia, cecilia	Synergy
2/26/2016 11:27	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/26/2016 13:49	Johnson, Kelly	RFx Analyst
2/26/2016 16:37	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/26/2016 20:42	Deg, Maria	Contractors Register
2/26/2016 20:55	Frank, Watson	Advanced Starlight I
2/26/2016 21:27	Banquill, Lovely	
2/26/2016 22:05	Kevin, Gillman	iSqFt
2/27/2016 0:55	Wang, Jon	Team Designers and A
2/27/2016 5:48	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/27/2016 16:06	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/27/2016 20:55	Frank, Watson	Advanced Starlight I
2/28/2016 0:10	Deg, Maria	Contractors Register
2/28/2016 3:48	Wang, Jon	Team Designers and A
2/28/2016 4:37	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/28/2016 15:47	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/28/2016 20:55	Frank, Watson	Advanced Starlight I
2/28/2016 21:51	Kurt, Pitzer	BidNet
2/28/2016 22:14	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/28/2016 22:21	Kurt, Pitzer	BidNet
2/29/2016 1:11	Deg, Maria	Contractors Register
2/29/2016 5:28	Wang, Jon	Team Designers and A
2/29/2016 5:46	Bid Clerk, Bid Clerk	Prime Vendor Inc.
2/29/2016 7:26	Kevin, Gillman	iSqFt
2/29/2016 7:53	Kevin, Gillman	iSqFt
2/29/2016 20:56	Frank, Watson	Advanced Starlight I
2/29/2016 21:08	Deg, Maria	Contractors Register
2/29/2016 21:45	Kurt, Pitzer	BidNet
2/29/2016 22:09	Kevin, Gillman	iSqFt
2/29/2016 22:19	Kurt, Pitzer	BidNet
3/1/2016 1:02	Bid Clerk, Bid Clerk	Prime Vendor Inc.
3/1/2016 4:39	Bid Clerk, Bid Clerk	Prime Vendor Inc.
3/1/2016 5:15	Wang, Jon	Team Designers and A
3/1/2016 7:54	Kevin, Gillman	iSqFt

3/1/2016 8:20 Livingston, Margaret ECI, INC

3/1/2016 10:09 Bid Clerk, Bid Clerk Prime Vendor Inc.

3/1/2016 14:34 blake, gregory

THE STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**AN AGREEMENT FOR  
PROFESSIONAL AND PROGRAM  
MANAGEMENT SERVICES**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2016 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 “ the Owner”, and HNTB Corporation, a Delaware Corporation, hereinafter referred to as the “the Consultant”.

**WHEREAS**, the City solicited qualifications for the provision of professional and program management services through a request for qualifications (“*RFQ*”) No. 2016-590R Management of Texas Department of Transportation (TxDOT) and Federal Highway Administration (FHWA) Programs; and

**WHEREAS**, the Consultant is the most qualified provider of the professional and program management services requested by the City based on the demonstrated competence and qualifications; and

**WHEREAS**, the Owner intends to engage the Consultant to perform professional and program management services for a project known as “MANAGEMENT OF TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) AND FEDERAL HIGHWAY ADMINISTRATION (FHWA) FUNDED PROGRAMS”, hereinafter referred to as the “Program”, as further described in Attachments “A” and

**WHEREAS**, the Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through RFQ No. 2016-590R 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 the 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”	Work Authorization Form
Attachment “C”	Key Personnel
Attachment “D”	Rate Schedule
Attachment “E”	Insurance Certificate
Attachment “F”	Federal Provisions

**1.2 OTHER DOCUMENTS; CONFLICT.** The following documents comprise this Agreement:

- A. The City's Request for Qualifications No. 2016-590R ("**RFQ**")
- B. The Consultant's Proposal ("**Proposal**").
- C. This Agreement.

The RFQ, and the Proposal are incorporated herein and made part of this Agreement for all purposes; provided, however, that in case of conflict in the language of the RFQ, the Proposal, and this Agreement, the terms and conditions of this Agreement shall control where they conflict with the RFQ and Proposal, and the terms and conditions of the RFQ shall control where they conflict with the Proposal.

## **ARTICLE II. PROGRAM**

**2.1** The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform professional and program management services for the Program. The Consultant shall complete the Scope of Services as further described in **Attachments "A"**.

**2.2** The Consultant shall serve as the Owner's program manager of the Program to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services. Consultant shall operate in complete coordination with, the Owner's staff with respect to all projects which now or in the future are studied, constructed or operated by the Owner (the "Projects"). The Consultant shall commit the personnel and resources required to respond promptly and fully to the responsibilities and tasks assigned by the Owner throughout the term of the Consultant's performance of the services described in this Agreement.

**2.3** The Owner shall provide all available information to the Consultant, as to the Owner's requirements for Program. The Owner shall also provide to the Consultant, all known information pertinent to the TxDOT and FHWA funded projects.

**2.4** The Owner hereby designates the City Engineer or Designee 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 or Designee 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 or Designee will render written decisions within five (5) working days.

**2.5** **WORK AUTHORIZATIONS.** Each activity, task, or project that is expected to result in a fee to the Consultant shall be performed pursuant to a separate Work Authorization, signed by the Owner and the Consultant. Work shall be in accordance with the scope, schedule, and budget set forth in said Work Authorization. The issuance of Work Authorizations is dependent on the funding received by the City for TxDOT and FHWA programs.

The standard form of Work Authorization is attached hereto as Attachment “B” and made a part hereof, which standard form may be modified during the term of this Agreement upon mutual agreement of the parties. Upon oral directive from the Owner, the Consultant shall prepare the Work Authorization for the specific task, to be submitted for the Owner’s approval. No work shall begin on the activity until the Work Authorization is approved and fully executed.” In no event will the maximum compensation identified within a Work Authorization be exceeded without prior written approval from the Owner. The maximum fee allowable for the performance of services under each Work Authorization shall be computed as described in Article IV. The costs associated with work performed on any Work Authorization will be tracked and reported to the Owner separately from other work performed by the Consultant. The monthly invoice to the Owner will include a progress summary of the work performed the previous month on each ongoing Work Authorization.

**2.6 ENVIRONMENTAL DISCLOSURE.** If the Consultant will prepare an environmental impact statement or an environmental assessment under this contract, the Consultant certifies by executing this contract that it has no financial or other interest in the outcome of the project on which the environmental impact statement or environmental assessment is prepared.

**2.7 COMMENCEMENT OF FINAL DESIGN.** This contract does not obligate the Owner to proceed with final design for any alternative. On completion of environmental documentation, the Owner will consider all reasonable alternatives in a fair and objective manner. Notwithstanding anything contained elsewhere in the contract or in any work authorization, the Consultant may not proceed with final design until after all relevant environmental decision documents have been issued.

**2.8 NON-COMPLIANT WORK.** If Consultant submits work that does not comply with the terms of this Agreement, the Owner shall instruct the Consultant to make such revision as is necessary to bring the work into compliance with the Agreement. No additional compensation shall be paid for this work.

**2.9 ERRORS/OMISSIONS.** The Consultant shall make revisions to the work authorized in this Agreement which are necessary to correct Consultant’s errors or omissions appearing therein, when required to do so by the Owner, No additional compensation shall be paid for this work.

### **ARTICLE III. PERSONNEL, EQUIPMENT AND MATERIALS**

**3.1 ADEQUATE PERSONNEL.** The Consultant shall furnish and maintain, at its own expense, adequate and sufficient personnel (drawn from its own employees or from approved subconsultants) and equipment, in the reasonable opinion of the Owner, to perform the services in accordance with the standards of care and skill customarily possessed and exercised by a practicing member of the engineering profession currently practicing under similar circumstances. All persons providing the services, whether employees of the Consultant or of an approved subconsultant, shall be fully licensed to the extent required by their professional

discipline associations' codes, laws or otherwise. Without limiting the foregoing, all persons in charge of, or responsible for, design, plan preparation, and related engineering work shall be licensed to practice professional engineering in the State of Texas and shall, in the case of the Consultant, be approved by the Owner prior to their involvement in work under this Agreement.

**3.2 REMOVAL OF PERSONNEL.** All persons providing the services, whether employees of the Consultant or of an approved subconsultant, shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any such person who, in the reasonable opinion of the Owner, is incompetent or by his/her conduct becomes detrimental to the provision of the services shall, upon request of the Owner, immediately be removed from the services. The Consultant shall furnish the Owner with a fully qualified candidate for the removed person within ten (10) days thereafter, provided, however, said candidate shall not begin work under this Agreement unless and until approved by the Owner.

**3.3 CONSULTANT FURNISHES EQUIPMENT, ETC.** Except as otherwise specified, the Consultant shall furnish all equipment, transportation, supplies, and materials required for its services under this Agreement.

**3.4 KEY PERSONNEL.** The Consultant acknowledges and agrees that the individual(s) identified on Attachment "C" attached hereto and made apart hereof are key and integral to the satisfactory performance of the Consultant under this agreement. Throughout the term of this agreement, the Consultant agrees that the identified individual(s), whether employee(s) of the Consultant or of an approved sub-consultant, will remain in charge of the performance of the services and shall devote substantial and sufficient time and attention thereto, to the extent required by the position indicated on Attachment "D". The death or disability of any such individual, his/her disassociation from the Consultant or the approved sub-consultant, or his/her failure or inability to devote sufficient time and attention to the services shall, at the Owner's option, require the Consultant to notify the Owner in writing as soon as possible, no later than three (3) business days after a change of key personnel giving the reason for removal. The Consultant shall promptly to replace said individual with a person suitably qualified and otherwise acceptable to the Owner. The Consultant shall use its commercially reasonable efforts to enhance continuity in the key personnel, sub-consultants, and other employees regularly performing the services. The Consultant shall notify and consult with the Owner regarding the scheduling of the key personnel's corporate activities, vacations, and other engagements during which he/she is unavailable for the services. Individuals may be added to Attachment "C" with the mutual consent of the Consultant and the Owner.

**3.5. PLANNING AND PERFORMANCE REVIEWS; INSPECTIONS.** As directed by the Owner, certain key personnel shall meet with the City Manager and/or his designee(s) no less frequently than quarterly (a) to assess the Consultant's progress under this Agreement and performance of the services and (b) to plan staffing levels to be provided by the Consultant to the Owner for the upcoming calendar quarter. Additionally, the Consultant shall provide the Owner a monthly log and progress report regarding the services and the Owner and the Consultant shall conduct an annual performance audit of the Consultant under this Agreement. The Consultant shall permit inspections of its services and work by the Owner or others, when requested by the Owner.

Nothing contained in this Agreement shall prevent the Owner from scheduling such other planning and performance reviews with the Consultant or inspections as the Owner deems necessary.

**3.6 MEETINGS.** At the request of the Owner, the Consultant shall provide appropriate personnel for conferences at its offices, or attend meetings and conferences at (a) the various offices of the Owner, (b) the district headquarters or offices of TxDOT, (c) the offices of the Owner's legal counsel, (d) the site of any project, or (e) any reasonably convenient location.

## **ARTICLE IV. COMPENSATION**

### **4.1 BASIS FOR COMPENSATION.**

**No services are being requested through this Agreement, nor shall any indebtedness accrue through the mere execution of this Agreement. The Owner will compensate the Consultant pursuant to Article IV. The total compensation to Consultant shall not exceed Thirteen Million and No/100 Dollars (\$13,000,000.00).**

Subject to the terms of a Work Authorization issued pursuant to Section 2.5 above, the Owner agrees to pay, and the Consultant agrees to accept as full and sufficient compensation and reimbursement for the performance of all services as set forth in **Attachment "D"**. The Owner will pay the auditable overhead rate, hourly rate and/or the hourly rates based on the nature of scope of work and firm that is performing the work identified in **Attachment "D"** by the Consultant and subconsultants.

If applicable overhead rates apply, the auditable overhead auditable hourly rates for the staff working on the assignment computed as follows:

$$\text{Direct Labor Cost} \times (1.0 + \text{AOR}) \times 1.11$$

Where Direct Labor Cost ranges for various staff classifications anticipated for the completion of the services are identified in **Attachment "D"**, which were arrived at by using actual hourly rates; Auditable Overhead Rate (AOR) equals the Consultant's most recent auditable overhead rate under 48 C.F.R. Part 31, Federal Acquisition Regulations (FAR 31); and 1.11 reflects an eleven percent (11%) profit. The range of Direct Labor Costs for the classifications of employees working for the Owner as of the Effective Date of this Agreement are reflected in **Attachment "D"**.

In the event that the Consultant's employees or subconsultants work a substantial portion of time in facilities owned, leased or paid for by the Owner, the auditable overhead rate for such employees or subconsultants shall be adjusted downward to reflect the Owner's burden of overhead associated with such employees or subconsultants and the corresponding relief from overhead obligations for such employees and subconsultants to the Consultant. Any such adjustments will be agreed upon in writing by the Owner and the Consultant, effective as of such time as the Consultant employees or subconsultants begin working in facilities owned, leased or paid for by the Owner.

The resulting amounts shall constitute full payment for all services, liaisons, products, materials, and equipment required to deliver the services including those detailed in the Scope of Services, together with overhead and, except as described in Section 4.4 below, anticipated travel and expenses. No adjustments will be approved or implemented without the written consent of the Owner. No other compensation will be requested or paid.

**4.2 COMPUTATION OF THE AUDITABLE OVERHEAD RATE.** The applicable compensation formula for this Agreement (identified in subsection 4.1 above) was determined by utilizing the Consultant's auditable overhead rate as allowed under the provisions of 48 C.F.R. Part 31, Federal Acquisition Regulations (FAR 31) as well as the specified profit percentage of eleven percent (11%). The Consultant represents that at all times throughout the term of this Agreement that the salary ranges shall not exceed the ranges reflected in Attachment "D" and shall be based on actual salary amounts for the individuals performing the work.

**4.3 EXPENSES.** As indicated above, the compensation computed in accordance with Sections 4.1. and 4.2 shall constitute full and sufficient compensation and reimbursement for the services, and includes all customary out-of-pocket expenses anticipated to result from the Consultant's performance under the Agreement that are included in the computation of the auditable overhead rate, such as office supplies, telecommunications systems, postage, photocopying, computer hardware/software and service charges, and similar business costs. Notwithstanding the foregoing, the Consultant shall be entitled to reimbursement for reasonable out-of-pocket expenses actually incurred by the Consultant that are necessary for the performance of its duties under this Agreement and which are not included in the auditable overhead rate, said expenses being limited to travel costs, printing costs, automobile expenses being reimbursed at the federal mileage rates for travel originating from the office of the Consultant employee or subconsultant, and other expenses directly approved, in advance, by the Owner. Except for automobile expenses paid at the federal mileage rate and travel paid at state approved rates (if available), all such reimbursement shall be at one-hundred percent (100%) of the actual cost thereof paid by the Consultant to unaffiliated entities; provided, however, that all amounts totaling in excess of \$1,500 for which the Consultant intends to seek reimbursement pursuant to this Section 4.3 must be approved in advance and in writing by the Owner.

The Owner shall not reimburse the Consultant for travel, lodging, and similar expenses incurred by the Consultant to bring additional staff to its local office or to otherwise reassign personnel to provide basic engineering support of the Consultant's performance of the services, provided, however, that the Owner shall reimburse, but only in accordance with the terms of this Section 4.3., such costs incurred by the Consultant to bring to its local office or the Owner's facilities, with advance approval by the Owner in writing, staff with specialized skills or expertise required for the services and not customarily available from a staff providing general consulting civil engineering services of the type described in this agreement. The Consultant shall take all reasonable steps to acquire all goods and services subject to reimbursement by the Owner under this Agreement on a tax-free basis pursuant to the Owner's tax-exempt status.

**4.4 NON-COMPENSABLE TIME.** Time spent by the Consultant's employees or subconsultants to perform services or functions capable of being carried out by other, subordinate personnel with a lower hourly rate shall be billed at a rate equivalent to that of the applicable

qualified subordinate personnel. Time spent by the Consultant's personnel or subconsultants in an administrative or supervisory capacity not related to the performance of the services shall not be compensable. Time spent on services that is in excess of what would reasonably be considered appropriate for the performance of such services shall not be compensable.

**4.5 CONSULTANT'S INVOICES.** The Consultant shall bill the Owner not more often than monthly, through written invoices. Invoices shall certify the salaries and expenses in providing the services under this agreement during the previous month, and shall also present a reconciliation of monthly invoices and the work authorization to which the services relate. All invoices shall be made in writing.

**4.5.1** A separate invoice shall be submitted for each active work authorization per month with a descriptive summary of work performed for each item invoiced. Each invoice shall only be submitted by the Consultant in a form with the Consultant's logo. Consultant may not submit invoices that combines work in different fiscal years. The invoices shall be in a form directly acceptable to TxDOT for potential reimbursement by TxDOT to the Owner. Each invoice shall be in such detail as is required by the Owner and TxDOT, when applicable, including a breakdown of services provided on such project. The Consultant shall also submit certified time that supports the invoiced salary and expense records to include hours, rate of pay, title and task. Copies of invoices and receipts for all expenses with itemized items, dates of services, confirmation of payment, function codes, and compliance with OMB Super Circular should be provided. All books and records relating to the Consultant's or subconsultants' time, out-of-pocket expenses, materials, or other services or deliverables invoiced to the Owner under this Agreement shall be made available during the Owner's normal business hours to the Owner and its representatives for review, copying and auditing throughout the term of this Agreement and for three (3) years after the expiration thereof. No compensation shall be made for revisions to the Consultant's or subconsultants' services or deliverables required due in any way to the negligent error, omission, or fault of the Consultant, its employees, agents, subconsultants, or contractors.

**4.5.2 (a)** For amounts invoiced by the Consultant to the Owner for all properly authorized services, upon receipt that complies with all invoice requirements of this Agreement, the Owner shall make a good faith effort to pay the amount which is due and payable within thirty (30) days. Past due amounts shall accrue interest at the lesser of the maximum rate allowed by law or the Prime Rate. In the event that more than \$200,000 of costs of the type described in this subparagraph 4.2.2(b) are due and payable for more than ninety (90) days, the Consultant shall be entitled, upon thirty (30) days prior written notice to the Owner, to cease performing any further services for the Owner.

**(b)** For any amounts invoiced to the Owner by the Consultant and for which the Owner disputes payment, the period for payment for said disputed amounts shall not commence until such dispute is resolved. Furthermore, a written notice giving reasons therefore shall be supplied to the Consultant within seven (7) days of receipt of such invoice. Upon the resolution of said dispute, Owner shall pay the invoices pursuant to Texas Government Code Chapter 2251.

**4.6 AS-NEEDED BASIS.** The Owner shall request that the Consultant perform specific services on an as-needed basis and through the issuance of work authorizations. No representation or assurance has been made on behalf of the Owner to the Consultant as to the total compensation to be paid to the Consultant under this Agreement.

**4.7 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 V. PERIOD OF SERVICE, TERMINATION AND DISPUTES**

**5.1 PERIOD OF SERVICE.** The term of this Agreement shall be for a period not to exceed **four (4) years** from the date first shown above, with two (2) options to extend for one (1) year each. The option to extend shall require approval by the City Manager or Designee. Should the Consultant's services be suspended for a period longer than one year, either during the four year term or during any option period, the City and the Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period.

**5.2 TERMINATION.** This Agreement may be terminated as provided herein.

**5.2.1 TERMINATION FOR CONVENIENCE.** 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. The 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.

**5.2.2 TERMINATION BY EITHER PARTY.** It is further understood and agreed by the Consultant and the 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.

Violation of contract terms, breach of contract, or default by the Contractor shall be grounds for termination of the contract, and any increased or additional cost incurred by the Owner arising from the Consultant's default, breach of contract or violation of contract terms shall be paid by the Contractor.

**5.2.3 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.

**5.2.4. TERMINATION, GENERALLY.**

**The Owner's rights and options to terminate this Agreement, as provided in any provision of this Agreement, shall be in addition to, and not in lieu of, any and all rights, actions, options, and privileges otherwise available under law or equity to the Authority by virtue of this Agreement or otherwise. Failure of the Owner to exercise any of its said rights, actions, options, and privileges to terminate this Agreement as provided in any provision of this Agreement or otherwise shall not be deemed a waiver of any of said rights, actions, options, or privileges or of any rights, actions, options, or privileges otherwise available under law or equity with respect to any continuing or subsequent breaches of this Agreement or of any other standard of conduct set by common law or statute.**

- 5.3 **DISPUTES.** In the event of a dispute between Owner and Consultant arising out of or related to this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

**ARTICLE VI.  
INSURANCE AND INDEMNIFICATION**

**6.1 INSURANCE.** The Consultant shall procure and maintain insurance coverage as required herein. 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.

**6.1.1 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."

**6.1.2 COMMERCIAL GENERAL 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.
- b) **AUTOMOBILE LIABILITY**  
**Combined Single Limit**  
\$1,000,000.00 per accident

**6.1.3 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 FIVE MILLION AND 00/100 DOLLARS (\$5,000,000.00) on a claims made basis. The Consultant agrees to work with the City and with the funding agencies to resolve any issues involving professional services which are being provided on the project.

**6.1.4 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.

**6.1.5 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.

**6.1.6 GENERAL INSURANCE PROVISIONS.** All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment "F"**. All certificates shall also include the name of the project on the corresponding insurance certificate. Further, each certificate shall contain the following statement:

"The insurance covered by this certificate will not be canceled, and there will be no change in coverage or deductibles, except after thirty (30) consecutive calendar days written notice of intent to cancel or change said insurance has been provided to the City of El Paso."

**6.2 INDEMNIFICATION.** TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, AND THE 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 THE CONSULTANT OR THE CONSULTANT'S OFFICERS, DIRECTORS, PARTNERS, AGENTS, OR THE CONSULTANTS EMPLOYEES. THIS INDEMNIFICATION PROVISION IS SUBJECT TO AND LIMITED BY THE PROVISIONS AGREED TO BY OWNER AND THE 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.**

**6.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS.** The 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 the Consultant and the Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to the Owner and anyone claiming by through, or under the 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 the Consultant (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to the Consultant by the Consultant's insurers in settlement or satisfaction of the Owner's Claims under the terms and conditions of the 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 the Consultant to Owner and anyone claiming by, through, or under the 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 VII.  
FEDERAL PROVISIONS**

**7.1 COMPLIANCE WITH APPLICABLE LAWS - FEDERAL FUNDING REQUIREMENTS**

The Consultant, at the 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 the Consultant with respect to the use of federal funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal funds.

Specifically, and not in limitation of the foregoing, the Consultant agrees that to the extent required by any agreement between the Owner and any Federal 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 through a Grant Agreement or Cooperative Agreement with the Owner.

--The Federal Highway Administration through a Local Project Funding Agreement through the Texas Department of Transportation.

Copies of grant assurances will be made available to the Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal 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.

**7.1.1 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.

**7.1.2 DBE GOOD FAITH EFFORTS.** It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of this contract. The requirements of 49 CFR Part 26, regulations of the U.S. DOT, may also apply to this Project, in which case the award of this contract will be conditioned upon Consultant satisfying the DBE requirements. A DBE contract goal of 10% has been established for this Project. The Consultant 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 contract.

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 Consultant'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 Consultant 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.

**7.2 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.

**7.3 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. Consultant 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 Owner to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information Consultant shall so certify to Owner, 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 Owner 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 Owner 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 Owner to enter into such litigation to protect the interests of Owner and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

**ARTICLE VIII.  
GENERAL PROVISIONS**

**8.1 STANDARD OF CARE.** The 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 this Agreement within the time schedules indicated herein. The Consultant shall timely notify the City Engineer or Designee of any delay beyond its control and the City Engineer or Designee 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 shall perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided herein.

**8.2 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 as expeditiously as is consistent with professional skill and care and the orderly progress of the Project and in accordance with the time periods established herein 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 the Owner. Services provided by the Consultant under this Agreement shall be performed in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar circumstances.

**8.3 COPYRIGHT AND REPRODUCTION RIGHTS.** Upon payment of amounts due, the drawings, plans, specifications, concepts and design, correspondence, memoranda, survey notes, 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. All documents prepared by the Consultant and all documents furnished to the Consultant by the Owner shall be delivered to the Owner upon request of the Owner. Consultant, at its own expense may retain copies of such documents or any other data which it has furnished the Owner under this Agreement.

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.

**8.4 AUDITING RECORDS FOR THE SPECIFIC PROJECT.** The 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) the 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.

**8.5 INDEPENDENT CONTRACTOR.** Nothing herein shall be construed as creating a relationship of employer and employee between the parties hereto. The Consultant agrees to be responsible for its own acts and omissions and those of its subordinates and employees in the performance of any material services under this Agreement. The Consultant is an independent contractor and nothing contained herein shall constitute or designate the Consultant or any of his employees as employees of the City. Neither the Consultant nor his employees shall be entitled to any of the benefits established for City employees, nor be covered by the City's Workers' Compensation Program.

**8.6 SUBCONTRACTING.**

**8.6.1 Prior Approval.** The Consultant shall not assign, subcontract or transfer any portion of professional services related to the work under this contract without prior written approval from the State.

**8.6.2 DBE/HUB Compliance.** The Consultant's subcontracting program shall comply with the requirements of DBE/HUB Requirements in Attachment "F".

**8.6.3 Required Provisions.** All subcontracts for professional services shall include the provisions included in Attachment A, General Provisions, and any provisions required by law. The Consultant is authorized to pay subproviders in accordance with the terms of the subcontract, and the basis of payment may differ from the basis of payment by the Owner to the Consultant.

**8.6.4 Prior Review.** Subcontracts for professional services in excess of \$25,000 may be reviewed by the Owner prior to performance of work thereunder.

**8.6.5 Consultant Responsibilities.** No subcontract relieves the Consultant of any responsibilities under this contract.

**8.7 FORCE MAJEURE** Except with respect to defaults of subproviders, the Engineer shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure to progress in the performance of the work) if such failure arises out of causes beyond the control and without the default or negligence of the Engineer. Such causes may include, but are not restricted to, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

## **8.8 NONCOLLUSION**

**8.8.1 WARRANTY.** The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this contract and that it has not paid or agreed to pay any company or engineer any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract.

**8.8.2 LIABILITY.** For breach or violation of this warranty, the Owner shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or compensation, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

## **8.9 CERTIFICATIONS.**

**8.9.1 CERTIFICATION STATUS.** The Consultant certifies that it is not:

1. a person required to register as a lobbyist under Chapter 305, Government Code;
2. a public relations firm; or
3. a government consultant.

### **8.9.2 DEBARMENT CERTIFICATIONS**

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the Engineer certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive Federal funds and, when requested by the State, to furnish a copy of the certification.

**8.10 COMPLIANCE WITH LAWS.**

The Consultant shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, codes and with the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance under this Agreement, including, without limitation, workers' compensation laws, anti-discrimination laws, environmental laws, minimum and maximum salary and wage statutes and regulations, health and safety codes, licensing laws and regulations, and all amendments and modifications to any of the foregoing, if any. When requested, the Consultant shall furnish the Owner with satisfactory proof of compliance with said laws, statutes, ordinances, rules, regulations, codes, orders, and decrees above specified.

**8.11 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.

**8.12 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.

**8.13 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

**8.14 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.

**8.15 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.

**8.16 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:                      HNTB Corporation  
  Attn: Carlos A. Lopez, P.E.  
  701 Brazos St., Suite 450  
  Austin, TX 78701

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

**8.17 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.

**8.18 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.

**WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:**

**CITY OF EL PASO:**

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

**CONSULTANT:**

Carlos A. Lopez, P.E.  
Carlos Lopez, Senior Vice President

**APPROVED AS TO FORM:**

Sol M. Cortez  
Sol M. Cortez  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

Omar Moreno, P.E.  
Omar Moreno, P.E.  
Director of CID Grant Funded Programs



*(Acknowledgements on following page)*

**ACKNOWLEDGEMENTS**

**THE STATE OF TEXAS §  
  §  
COUNTY OF EL PASO §**

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2016,  
by **Tomás González**, as **City Manager of the City of El Paso, Texas**.

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

**My commission expires:**  
  
\_\_\_\_\_

**THE STATE OF TEXAS §  
  §  
COUNTY OF EL PASO §**

This instrument was acknowledged before me on this 12 day of October, 2016,  
by **Carlos Lopez** as **Senior Vice President of HNTB Corporation**.

*Cynthia A Garcia*  
\_\_\_\_\_  
**Notary Public, State of Texas**

**My commission expires:**  
  
May 14, 2018



**ATTACHMENT "A"**  
**SCOPE OF SERVICES**

## ATTACHMENT A

### SCOPE OF WORK

The scope of services encompasses six project phases: project identification, funding approval and project development; design; environmental coordination; land acquisition; construction management; and project close out. Each phase will require a weekly report showing status (threats to project completion date, delays, and items requiring immediate attention). The following is a list of the anticipated services, but not limited to, required for this federal/state/local funded program:

#### A. Project Identification, Funding Approval, and Project Development

- Coordination with TxDOT, MPO, City Departments, City Representatives, various stakeholders including utilities, and the public
- Identify and/or develop projects that are eligible for federal/state call for projects
- Present proposed projects with scope, air analysis (if required), current cost estimates to City of El Paso for approval.
- Coordination with TxDOT, MPO, City Departments, City Representatives, various stakeholders including utilities, and the public
- Develop and submit the project request form along with required backup, including air quality analysis for Congestion Mitigation and Air Quality Improvement (CMAQ) Program funded projects; and any other form requested in a call for projects
- Present and discuss merits of project
- Work with TxDOT to develop and produce Local Project Advance Funding Agreement or similar
- Perform Feasibility Studies

#### B. Design

- Provide Architectural/Civil Engineering project management and design services
  - surveying services
  - design,
  - plans,
  - contract documents, estimates and specifications
- Effective January 1, 2000 HB 1544 requires that any entity offering engineering services to the public of Texas must register with the Texas Board of Professional Engineers. Evidence of TBPE Firm Registration must be provided to the City and maintained throughout duration of the contract.
- Coordinate with City Purchasing Director and staff to prepare proposal notices
- Create proposal documents and assist in procurement of construction services, materials, rental/lease equipment, professional design services, or other items needed to implement the federal/state funded projects—may include multiple proposals for contracted work for various projects
- Prepare construction contracts
- Engineer's Report, if requested.

### **C. Environmental Coordination**

Services which may be required (based on project requirements):

- Environmental study, report, and document preparation
- Environmental permitting
- Traffic noise analysis
- Air quality analysis
- Wetland delineation
- Water pollution abatement plans
- Protected species coordination
- Biological surveys
- 4(f) evaluations
- Historic structures surveys, research, preservation plans, and documentation
- Archeological surveys, documentation, excavations, testing and data recovery plans
- Historical and archival research
- Socio-economic and environmental justice analysis
- Hazardous materials site assessments

### **D. Land Acquisition**

- Must adhere to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- Acquire all property following federal guidelines (to include any relocation assistance determinations and negotiations, if needed) to include:
  - Initiate initial contact to property owners:
  - Appraisals
  - Order Title commitments
  - Closing
  - Review surveys, provide feedback
  - Obtain any easement, right of entries, licenses, releases, as needed for construction of projects
  - Brief relevant staff on status, provide weekly written updates/status report
  - Attend & provide presentations at meetings/briefings as needed
  - Coordinate with the City Legal department throughout process, and provide support as needed
    - If land owner is represented by an Attorney, all communications must be made through the City's Legal department
  - Coordinate, participate, and support any Eminent Domain proceedings
    - Participate and be a witness as needed for eminent domain proceedings, and provide records and files
  - Other Land acquisition functions, assignments, analysis as required by the City

### **E. Construction Management**

- Field investigation
- Conduct pre-construction meetings

- Analyze additional compensation claims that are submitted during the construction period and prepare responses.
  - Perform claims administration including coordinating and monitoring claims responses, logging claims and tracking claim status.
  - Review, comment and facilitate responses to requests for information:
- Conduct meetings with the Construction Contractor and other parties as needed to discuss and resolve RFIs.
  - Prepare responses to RFI related construction issues.
  - Coordinate response to design-related RFIs with design engineer
- Evaluate cost reduction incentive proposals and provide recommendations to the City
- Monitor and enforce Construction Contractor's compliance with SWPPP and other environmental commitments
- Identify actual and potential problems associated with the construction project and consult with the City Project Manager
- Facilitate any necessary utility coordination with the applicable utility and the construction Contractor.
- Prepare a monthly progress report on each project for the City describing key issues, cost status, and schedule status.
- Prepare monthly progress payment requests in compliance with TxDOT requirements; negotiate differences over quantities and amount with the Construction Contractor and process payments through the City.
- In conjunction with contractor develop and implement a safety plan.
  - Ensure safety meetings are taking place and keep track of them.
  - Maintain an awareness of safety and health requirements and enforce applicable regulations and contract provisions for the protection of the public and project personnel.
- Prepare City requests for reimbursement of project costs to TxDOT and submit to City for processing

#### **F. Project Close-out**

- Conduct project final inspection
- Prepare initial punch list and consolidate comments into final punch list
- Finalize the bid items, claims, change orders, punch list items and correct shop drawings
- Prepare/oversee completion of record drawing - submit to City electronically and as a hard copy
- Provide certification by Texas registered professional engineer that the project is constructed in substantial compliance with the plans, specifications, and material testing requirements.
- Submit required documents to TxDOT for final review
- Preparation of federal final report including all necessary attachments
- Preparation of City Report of Expenditures Checklist - include all necessary attachments
- Transmit all project files and record drawing to City for archiving

**ATTACHMENT "B"**  
**WORK AUTHORIZATION FORM**

## Attachment "B"

### **WORK AUTHORIZATION NO.**

This Work Authorization No. \_\_\_ is made as of this \_\_ day of \_\_\_\_\_, 20 \_\_, under the terms and conditions established in the AGREEMENT FOR GENERAL CONSULTING ENGINEERING SERVICES, dated \_\_\_\_\_, 2016 (the "Agreement"), between the City of El Paso (Owner) and HNTB Corporation (Consultant). This **Work Authorization No.** \_\_\_\_\_ is made for the following purpose, consistent with the services defined in the Agreement: .

[Brief description of the Project elements to which this Work Authorization applies]

#### **Section A.-Scope of Services**

1. Consultant shall perform the following Services:  
[Enter description of the Scope of Services here for which this Work Authorization applies, or make reference to an attached Exhibit]
2. The following Services are not included in this Work Authorization, but shall be provided as Additional Services if authorized or confirmed in writing by the owner.
3. In conjunction with the performance of the foregoing Services, Consultant shall provide the following submittals/deliverables (Documents) to the owner.

#### **Section B.-Schedule**

Consultant shall perform the Services and deliver the related Documents (if any) according to the following schedule:

#### **Section C-Compensation**

In return for the performance of the forgoing obligations, the owner shall pay to the consultant the amount not to exceed \$\_\_\_\_\_, based on the fee estimate, which is attached as **EXHIBIT "x"**, dated \_\_\_\_\_. Compensation shall be made in accordance with the Agreement. Invoices shall be provided by the consultant in accordance with **EXHIBIT "y"**, which is attached hereto and incorporated herein for all purposes.

**ATTACHMENT "C"**  
**KEY PERSONNEL**

# Attachment "C"

Solicitation No. 7016-590R  
February 24, 2016

Statement of Qualifications  
Management of FDOT & FHWA Programs, Capital Improvement Department

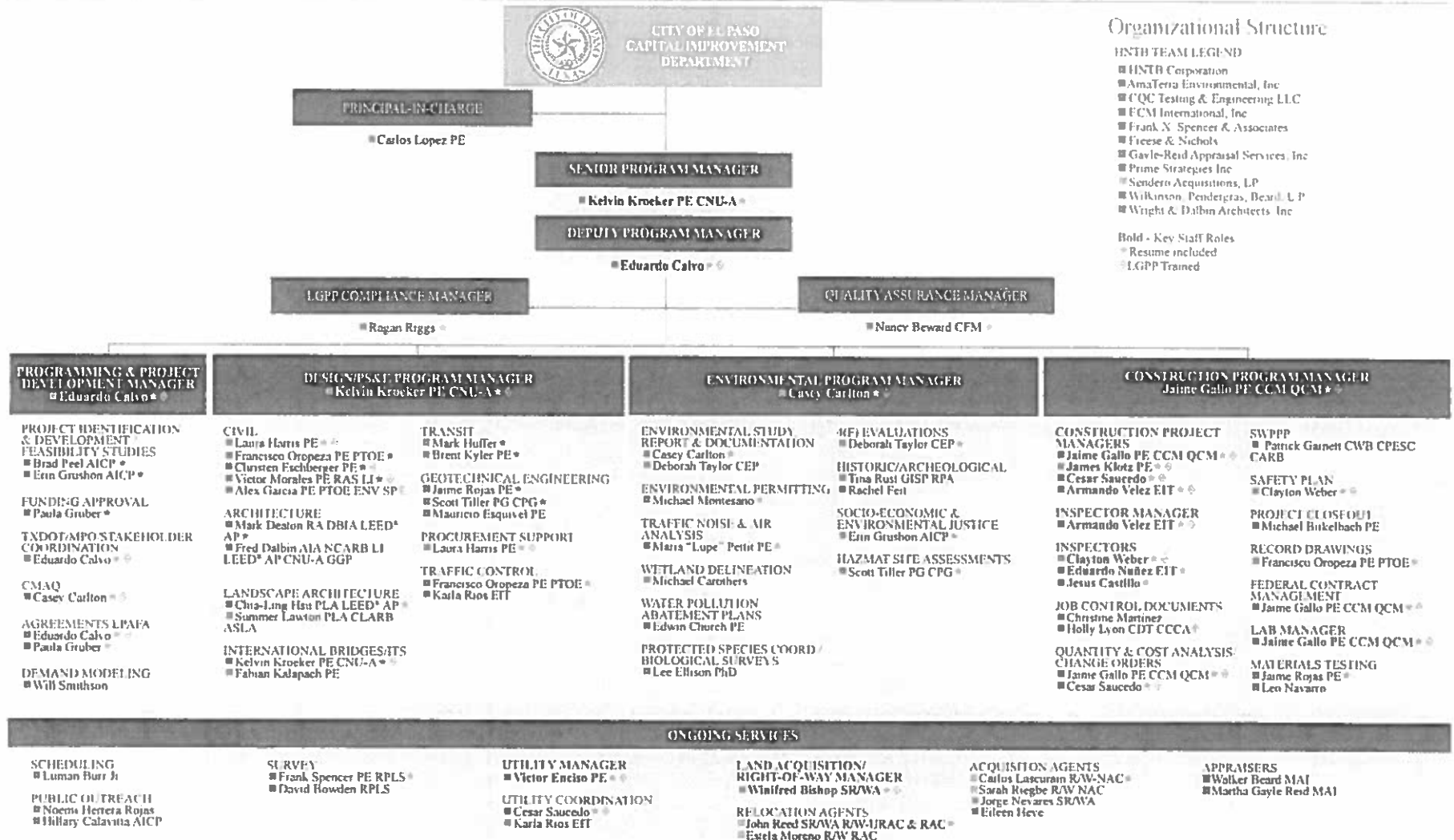


## Organizational Structure

### HNTB TEAM LEGEND

- HNTB Corporation
- AmaTerra Environmental, Inc
- CQC Testing & Engineering LLC
- ECM International, Inc
- Frank X. Spencer & Associates
- Freese & Nichols
- Gavle-Reid Appraisal Services, Inc
- Prime Strategies Inc
- Sendero Acquisitions, LP
- Wilkinson, Pendergras, Beard, L.P
- Wright & Dalbin Architects Inc

- Bold** - Key Staff Roles
- \*** - Resume included
- ◆** - LGPP Trained



**ATTACHMENT "D"**  
**RATE SCHEDULE**

# Attachment "D"

## Solicitation No. 2016-590R Management of TxDOT & FHWA Programs

FIRM: HNTB						TASK 1	TASK 2	TASK 3	TASK 4	TASK 5	TASK 6	TASK 7	TASK 8	TASK 9	TASK 10	TASK 11	TASK 12
Classification	Direct Labor Cost (Range)	% Available Off Rate	Profit	Load Factor	2016 Hourly Billing Rate (Range)	Identification, Planning and Development	Engineering	Construction Management	Quality Assurance	Construction Survey	Real Estate Management/Requirements	Post Construction Phase	Project Completion	Environmental Engineering	Land Acquisition	Architectural Consulting Services	Construction Inspections
Senior Project Manager	\$78 - \$91	2.4725	11.00%	2.7445	\$213 - \$250	*	*	*	*	*	*	*	*	*	*	*	*
Project Manager	\$63 - \$74	2.4725	11.00%	2.7445	\$172 - \$203	*	*	*	*	*	*	*	*	*	*	*	*
Principal / Project Advisor	\$107 - \$158	2.4725	11.00%	2.7445	\$293 - \$432	*	*	*	*	*	*	*	*	*	*	*	*
Senior Engineer	\$69 - \$89	2.4725	11.00%	2.7445	\$190 - \$243	*	*	*	*	*	*	*	*	*	*	*	*
Design Engineer	\$37 - \$67	2.4725	11.00%	2.7445	\$101 - \$183	*	*	*	*	*	*	*	*	*	*	*	*
EIT	\$28 - \$35	2.4725	11.00%	2.7445	\$77 - \$96	*	*	*	*	*	*	*	*	*	*	*	*
Architect	\$54 - \$83	2.4725	11.00%	2.7445	\$147 - \$173	*	*	*	*	*	*	*	*	*	*	*	*
Senior Planner	\$55 - \$85	2.4725	11.00%	2.7445	\$151 - \$232	*	*	*	*	*	*	*	*	*	*	*	*
Planner	\$48 - \$54	2.4725	11.00%	2.7445	\$126 - \$148	*	*	*	*	*	*	*	*	*	*	*	*
Right of Way Manager	\$47 - \$63	2.4725	11.00%	2.7445	\$129 - \$171	*	*	*	*	*	*	*	*	*	*	*	*
Construction Program Manager	\$89 - \$89	2.4725	11.00%	2.7445	\$189 - \$242	*	*	*	*	*	*	*	*	*	*	*	*
Construction Project Engineer	\$56 - \$66	2.4725	11.00%	2.7445	\$154 - \$181	*	*	*	*	*	*	*	*	*	*	*	*
Construction Inspector	\$35 - \$50	2.4725	11.00%	2.7445	\$96 - \$160	*	*	*	*	*	*	*	*	*	*	*	*
Landscape Architect	\$44 - \$68	2.4725	11.00%	2.7445	\$121 - \$186	*	*	*	*	*	*	*	*	*	*	*	*
Senior Environmental Planner	\$54 - \$69	2.4725	11.00%	2.7445	\$148 - \$190	*	*	*	*	*	*	*	*	*	*	*	*
Environmental Planner	\$46 - \$54	2.4725	11.00%	2.7445	\$126 - \$148	*	*	*	*	*	*	*	*	*	*	*	*
Senior PI Representative	\$47 - \$65	2.4725	11.00%	2.7445	\$127 - \$177	*	*	*	*	*	*	*	*	*	*	*	*
Project Controls Specialist	\$44 - \$55	2.4725	11.00%	2.7445	\$120 - \$150	*	*	*	*	*	*	*	*	*	*	*	*
Senior Project Analyst	\$41 - \$58	2.4725	11.00%	2.7445	\$111 - \$159	*	*	*	*	*	*	*	*	*	*	*	*
Project Analyst	\$35 - \$42	2.4725	11.00%	2.7445	\$96 - \$113	*	*	*	*	*	*	*	*	*	*	*	*
Document Control Specialist	\$27 - \$32	2.4725	11.00%	2.7445	\$74 - \$87	*	*	*	*	*	*	*	*	*	*	*	*

Classifications highlighted in grey were included in solicitation.

\* Indicates classification could be involved in task

The commercial or financial information contained herein is privileged and confidential of HNTB Corporation within the meaning of 5 USC 552, and as such it is exempt from the public disclosure provisions thereof. It is furnished to the Government in confidence with the understanding that it will not, without permission of HNTB, be released outside the Government, be used or disclosed for any purpose other than the purpose for which it is provided.

ECM International

Title	Direct Labor Cost (Range)	(1+Auditable OH Rate)	PROFIT	Combined Hourly Rate
Senior Program Manager	\$74	2.604	11%	\$214
Senior Project Manager	\$58 - \$62	2.604	11%	\$168 - \$180
Project Manager	\$38 - \$58	2.604	11%	\$110 - \$168
Cost Estimator	\$40 - \$58	2.604	11%	\$116 - \$168
Contracts Compliance Manager	\$30 - \$58	2.604	11%	\$87 - \$168
Materials Testing Manager	\$41 - \$58	2.604	11%	\$119 - \$168
Utility Design Coordinator	\$40	2.604	11%	\$116
Field Representative	\$41 - \$45	2.604	11%	\$119 - \$131
Field Engineer	\$38 - \$40	2.604	11%	\$110 - \$116
Field Assistant	\$25	2.604	11%	\$73
Administrative Assistant	\$20 - \$25	2.604	11%	\$58 - \$73

**Freese and Nichols**

<b>Title</b>	<b>Direct Labor Cost (Range)</b>	<b>(1+Auditable OH Rate)</b>	<b>PROFIT</b>	<b>Combined Hourly Rate</b>
Senior Engineer	\$67 - \$71	2.8261	11%	\$211 - \$223
Design Engineer	\$39 - \$58	2.8261	11%	\$120 - \$182
Document Control Specialists	\$26 - \$34	2.8261	11%	\$80 - \$107
Environmental Planner	\$47 - \$67	2.8261	11%	\$147 - \$209

**AmaTerra Environmental, Inc.**

<b>Title</b>	<b>Direct Labor Cost (Range)</b>	<b>(1+Auditable OH Rate)</b>	<b>PROFIT</b>	<b>Combined Hourly Rate</b>
Senior Archeologist	\$43 - \$49	2.3923	11%	\$113 - \$128
Archeologist	\$22 - \$30	2.3923	11%	\$57 - \$79
Sr. Architectural Historian	\$43 - \$45	2.3923	11%	\$115 - \$118
Historian	\$25 - \$31	2.3923	11%	\$64 - \$81
Quality Assurance Manager	\$45 - \$69	2.3923	11%	\$118 - \$182
Admin	\$27 - \$37	2.3923	11%	\$71 - \$97
Document Control Specialist	\$17 - \$27	2.3923	11%	\$44 - \$71

**Frank X. Spencer & Associates**

<b>Title</b>	<b>Direct Labor Cost (Range)</b>	<b>(1+Auditable OH Rate)</b>	<b>PROFIT</b>	<b>Combined Hourly Rate</b>
Project Manager	\$42 - \$58	2.9005	11%	\$133 - \$187
Design Engineer	\$28 - \$38	2.9005	11%	\$90 - \$123
EIT	\$25 - \$35	2.9005	11%	\$79 - \$113
Senior Engineer Tech	\$28 - \$38	2.9005	11%	\$90 - \$123
CADD Operator	\$22 - \$32	2.9005	11%	\$71 - \$104
Admin/Clerical	\$17 - \$26	2.9005	11%	\$53 - \$84
Utility Engineering Sr. Project	\$60 - \$75	2.9005	11%	\$194 - \$242
Utility Engineering Technician II	\$23 - \$35	2.9005	11%	\$75 - \$113
Utility Engineering Project Analyst	\$33 - \$44	2.9005	11%	\$104 - \$142
2 Person Utility Engineering Crew	\$59 - \$75	2.9005	11%	\$188 - \$242
3 Person Utility Engineering Crew	\$82 - \$95	2.9005	11%	\$263 - \$306
Licensed State Land Surveyor	\$50 - \$65	2.9005	11%	\$160 - \$210
Survey Technician	\$29 - \$38	2.9005	11%	\$94 - \$123
2 - Person Survey Crew	\$42 - \$54	2.9005	11%	\$136 - \$174
3 - Person Survey Crew	\$56 - \$75	2.9005	11%	\$180 - \$242
Instrument Man	\$21 - \$28	2.9005	11%	\$68 - \$91
Abstractor	\$25 - \$35	2.9005	11%	\$79 - \$113

**Wright & Dalbin Architects, Inc.**

<b>Title</b>	<b>Direct Labor Cost (Range)</b>	<b>(1+Auditable OH Rate)</b>	<b>PROFIT</b>	<b>Combined Hourly Rate</b>
Principal Architect	\$64.00	2.77	0%	\$178
Associate Architect	\$47.00	2.77	0%	\$131
Intern Architect	\$27 - \$42	2.77	0%	\$75 - \$117
Admin Assistant	\$20 - \$25	2.77	0%	\$56 - \$70
Secretarial Staff	\$11 - \$16	2.77	0%	\$31 - \$45

**Sendero Acquisitions L.P. Rates**

<b>Title</b>	<b>Direct Labor Cost (Range)</b>	<b>(1+Auditable OH Rate)</b>	<b>PROFIT</b>	<b>Combined Hourly Rate</b>
Senior Program Manager	\$56 - \$76	2.6095	0%	\$145 - \$197
Sr. Relocation Agent	\$80 - \$90	2.6095	0%	\$209 - \$235
Relocation Agent	\$38 - \$42	2.6095	0%	\$98 - \$110
Sr. ROW Agent	\$45 - \$50	2.6095	0%	\$118 - \$131
ROW Agent	\$34 - \$40	2.6095	0%	\$89 - \$105

**Prime Strategies Inc.**

<b>Title</b>	<b>Direct Labor Cost (Range)</b>	<b>(1+Auditable OH Rate)</b>	<b>PROFIT</b>	<b>Combined Hourly Rate</b>
Principal	\$105 - \$105	2.7685	0%	\$289 - \$289
Senior Planner	\$39 - \$39	2.7685	0%	\$108 - \$108
Admin/Clerical	\$31 - \$31	2.7685	0%	\$84 - \$84

Wilkinson, Pendergras, Beard LP

Category of Appraisal Assignment	Specific Assignment For Initial <u>and</u> Update Appraisal Assignment	Complexity of Appraisal Assignment							
		Non-Complex	Complex Level 1	Complex Level 2	Complex Level 3	Complex Level 4	Complex Level 5	Complex Level 6	Complex Level 7
		Less than 10 Hrs.	11 to 15 Hrs.	16 to 20 Hrs.	21 to 25 Hrs.	26 to 30 Hrs.	31 to 35 Hrs.	36 to 40 Hrs.	Over 40 Hrs. at Hourly Rate
		1 Fee	1 Fee	1 Fee	1 Fee	1 Fee	1 Fee	1 Fee	Hourly Rate
Vacant Land	Rural Land; Farm Land; Ranch Land	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 4,500	\$ 4,800	\$ 200
	Residential Lot (1 to 4 family)	\$ 1,200	\$ 1,600	\$ 1,800	\$ 2,100	\$ 2,400	\$ 2,700	\$ 3,000	\$ 175
	Residential Subdivision	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 4,700	\$ 5,000	\$ 200
	Commercial or Industrial Tract	\$ 2,200	\$ 2,500	\$ 2,800	\$ 3,100	\$ 3,400	\$ 3,700	\$ 4,000	\$ 175
Residential	Single Family (1 to 4 family)	\$ 1,200	\$ 1,600	\$ 1,800	\$ 2,100	\$ 2,400	\$ 2,700	\$ 3,000	\$ 175
	Residential Condominium	\$ 1,200	\$ 1,600	\$ 1,800	\$ 2,100	\$ 2,400	\$ 2,700	\$ 3,000	\$ 175
	Apartments	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
Commercial	Single Tenant Retail (up to 25,000 sq. ft.)	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Discount Chain Store; Department Store	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Retail Center (up to 300,000 sq. ft.)	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Retail Center (300k to 1.5m sq. ft.)	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Convenience Store; Service Station	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Office Building; Medical Office Building	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Other Commercial Uses	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
Industrial	Manufacturing	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Engineering Research and Development	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 4,500	\$ 4,800	\$ 200
	Storage; Showroom; Flex Building	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Distribution and Transit Warehouses	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Mini-Warehouse	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Auto Showroom; Auto Service Center	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 4,500	\$ 4,800	\$ 200
Other Industrial uses	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200	
Other	Review of Appraisal	\$ 2,400	\$ 2,700	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 200
	Appraisal Consulting	\$ 2,400	\$ 2,700	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 200
	Prep and Testimony for Eminent Domain								

Category of Appraisal Assignment	Specific Assignment For Initial <u>and</u> Update Appraisal Assignment	Complexity of Appraisal Assignment							
		Non-Complex	Complex Level 1	Complex Level 2	Complex Level 3	Complex Level 4	Complex Level 5	Complex Level 6	Complex Level 7
		Less than 10 Hrs.	11 to 15 Hrs.	16 to 20 Hrs.	21 to 25 Hrs.	26 to 30 Hrs.	31 to 35 Hrs.	36 to 40 Hrs.	Over 40 Hrs. at Hourly Rate
		1 Fee	1 Fee	1 Fee	1 Fee	1 Fee	1 Fee	1 Fee	Hourly Rate
Vacant Land	Rural Land: Farm Land; Ranch Land	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 4,500	\$ 4,800	\$ 200
	Residential Lot (1 to 4 family)	\$ 1,200	\$ 1,600	\$ 1,800	\$ 2,100	\$ 2,400	\$ 2,700	\$ 3,000	\$ 175
	Residential Subdivision	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 4,700	\$ 5,000	\$ 200
	Commercial or Industrial Tract	\$ 2,200	\$ 2,500	\$ 2,800	\$ 3,100	\$ 3,400	\$ 3,700	\$ 4,000	\$ 175
Residential	Single Family (1 to 4 family)	\$ 1,200	\$ 1,600	\$ 1,800	\$ 2,100	\$ 2,400	\$ 2,700	\$ 3,000	\$ 175
	Residential Condominium	\$ 1,200	\$ 1,600	\$ 1,800	\$ 2,100	\$ 2,400	\$ 2,700	\$ 3,000	\$ 175
	Apartments	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
Commercial	Single Tenant Retail (up to 25,000 sq.ft.)	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Discount Chain Store; Department Store	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Retail Center (up to 300,000 sq. ft.)	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Retail Center (300k to 1.5m sq. ft.)	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Convenience Store; Service Station	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Office Building; Medical Office Building	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Other Commercial Uses	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
Industrial	Manufacturing	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Engineering Research and Development	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 4,500	\$ 4,800	\$ 200
	Storage; Showroom; Flex Building	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Distribution and Transit Warehouses	\$ 3,500	\$ 4,000	\$ 4,500	\$ 5,000	\$ 5,500	\$ 6,000	\$ 6,500	\$ 200
	Mini-Warehouse	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
	Auto Showroom; Auto Service Center	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 4,500	\$ 4,800	\$ 200
	Other Industrial uses	\$ 2,600	\$ 2,900	\$ 3,200	\$ 3,500	\$ 3,800	\$ 4,100	\$ 4,400	\$ 200
Other	Review of Appraisal	\$ 2,400	\$ 2,700	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 200
	Appraisal Consulting	\$ 2,400	\$ 2,700	\$ 3,000	\$ 3,300	\$ 3,600	\$ 3,900	\$ 4,200	\$ 200
	Prep and Testimony for Eminent Domain								

**CQC Testing & Engineering LLC**

Title	Direct Labor Cost (Range)	(1+Auditable OH Rate)	PROFIT	Combined Hourly Rate
Principal Geotech Engineer	\$32 - \$36	2.45	11%	\$86 - \$97
Geotech Project Engineer Manager	\$28 - \$32	2.45	11%	\$77 - \$86
Project Geotech Engineer	\$26 - \$28	2.45	11%	\$71 - \$77
Field Technician - Soil Boring Logging	\$14 - \$16	2.45	11%	\$39 - \$44
Field and Lab Tech 1A, ACI Certified	\$16 - \$22	2.45	11%	\$44 - \$60
Field and Lab Tech 1B, ACI Certified	\$16 - \$22	2.45	11%	\$44 - \$60
Senior Field Technician	\$25 - \$28	2.45	11%	\$68 - \$77
Sr.Administrative Assistant	\$16 - \$20	2.45	11%	\$44 - \$55
Administrative Assistant	\$14 - \$16	2.45	11%	\$39 - \$44

	Unit	Proposed Rate
<b>Field Drilling Services</b>		
Drilling Soil Formations	LF	\$ 15.50
Drilling Hard Rock Formations	LF	\$ 85.00
Mobilization /Demobilization	Project	\$ 500.00
Bore Hole Grouting	LF	\$ 5.00
Standard Penetration Test	ea.	\$ 15.50
Shelby Tube	ea.	\$ 26.00
Texas Cone Penetromter test (THD)	ea.	\$ 15.50
Pavement Coring for Asphalt	ea.	\$ 75.00
Pavement Coring for Concrete	ea.	\$ 95.00
Concrete/AC Patch	ea.	\$ 35.00
Traffic Control	per setup	\$ 600.00
Generator Rental	day	\$ 85.00
Backhoe Rental	day	\$ 1,200.00
<b>Geotechnical Lab Testing Services</b>		
Dry Unit Weights	ea.	\$ 15.00
Soil pH	ea.	\$ 35.00
Resistivity of Soil Material	ea.	\$ 85.00
Determination of Moisture Content in Soils	ea.	\$ 8.00
Method of Calculating Plasticity Index of Soil Test (Includes Test for Determining Atterberg Limits, LL & PL)	Per Set	\$ 55.00
Determination of Shrinkage Factors of Soil Test	ea.	\$ 35.00
Determination of Specific Gravity of Soils Test	ea.	\$ 85.00
Determination of Particle Size Analysis of Soils Text (Part 1)	ea.	\$ 55.00
Determination of Particle Size Analysis of Soils Text (Part 2)	ea.	\$ 150.00
Determination of Moisture Density Relations of Soils and Base	ea.	\$ 250.00
Ball Mill Method for Determination of Disintegration of Flex. Base	ea.	\$ 220.00
Consolidation Test (up to 6 load increments), plus Specific Gravity of Soil	ea.	\$ 450.00
TXDOT Triaxial Test	ea.	\$ 1,650.00
Soil or Rock Unconfined Compressive Strength Test	ea.	\$ 85.00
Soil Direct Shear Test, 3 Normal Stresses	ea.	\$ 600.00
Soil Water Soluble Chlorides Content	ea.	\$ 35.00
Soil Water Soluble Sulfates Content	ea.	\$ 35.00
Soil Water Soluble Sulfides Content	ea.	\$ 35.00

**CQC Testing & Engineering LLC**

<b>CMT Services - Direct Expense Rates</b>	<b>Unit</b>	<b>Proposed Rates</b>
<b>Soil Sampling and Testing</b>		
Vehicle Trip Charge, within city limits	Trip	\$ 45.00
Moisture/Density Relationship (Methods: ASTM D698/1557) including Lab Soil Sample Preparation, M-D Curve, PI, Sieve Analysis, 1/2 hr. of on site tech time for sampling and reporting	EA	\$ 280.00
TXDOT - M/D Relationship (Methods: TEX 113-E/ 114-E) including Lab Soil Sample Preparation, M-D Curve, PI, Sieve Analysis, 1/2 hr. of on site tech time for sampling and reporting	EA	\$ 350.00
Atterberg Limits Test - Plasticity Index, only test if required	EA	\$ 55.00
Soil Sieve Analysis, only test if required	EA	\$ 45.00
Hydrometer Analysis of Fine Soils	EA	\$ 150.00
TXDOT Linear Bar Shrinkage Test, TEX 107 E	EA	\$ 85.00
TXDOT Wet Ball Mill Test, TEX 107 E	EA	\$ 220.00
Soil Moisture Content Test, Method: ASTM D2216	EA	\$ 8.00
Field Density Tests - 3 min. per trip (Method: Nuclear Density Gage); includes 1 hr. of on-site tech-time for testing, reporting, Stand by time shall be applied at the applicable rate after 1 hour.	EA	\$ 35.00
Sand Cone In-Place Density Test, 3 min. per trip	EA	\$ 48.00
Laboratory Soil California Bearing Ratio Test, 2 pt.	EA	\$ 350.00
Soil Consolidation Test, Method: ASTM D2434	EA	\$ 450.00
One Dimensional Swell Test, Method ASTM D4546	EA	\$ 150.00
Permeability Test, Flexible Wall (Triaxial), Method: ASTM D5084.	EA	\$ 425.00
Laboratory Soil pH and Electrical Resistivity Test	EA	\$ 115.00
Soil Unconfined Compressive Strength Test	EA	\$ 85.00
Soil Direct Shear Test, 3 points	EA	\$ 600.00
TXDOT Triaxial Compression Test, TEX 117 E	EA	\$ 1,650.00
<b>Concrete Sampling and Testing</b>		
Vehicle Trip Charge, within city limits	TRIP	\$ 45.00
Concrete Compressive Strength Testing: 5 concrete cylinders per set (Includes: 1 hr. tech-time, slump, temperature, pick-up, reporting, additional tech stand by time applied after 1 hour).	SET	\$ 250.00
Air Content and Additional Slump Tests, (does not include additional tech-time, stand-by time, if required)	EA	\$ 15.00
Additional Cylinder Samples	EA	\$ 20.00
Unit Weight and Yield Tests	EA	\$ 50.00
Concrete Mix Designs	EA	AS REQUESTED
Concrete Beams Flexural Strength Tests (Beams) 4 min. per trip (Includes: 1 hr. tech-time, slump, temperature, pick-up, reporting, additional tech stand by time applied after 1 hour).	EA	\$ 75.00
Floor Flatness / Levelness Testing	DAY	\$ 1,200.00
Floor Flatness Equipment Rental	DAY	\$ 400.00
<b>Asphalt-Concrete Materials Sampling and Testing</b>		
Vehicle Trip Charge, within city limits	TRIP	\$ 45.00
Asphaltic-Concrete (AC) Extraction, Gradation, Bitumen Content, Marshall Stability & Flow Lab Testing and reporting.	EA	\$ 290.00
AC Maximum Theoretical Specific Gravity Lab Test (Rice)	EA	\$ 85.00
AC Material Sample Pick-Up, 2 hr. Min. per trip	HR	\$ 48.00
AC Mat Surface Density Tests - 3 min. per trip ( Nuclear Density Gage); includes 1 hr. of on-site tech-time for testing, reporting, Stand by time shall be applied at the applicable rate after 1 hour.	EA	\$ 35.00
Coring of Asphaltic Concrete, Determine Thickness & Density 3 cores minimum per trip and reporting.	EA	\$ 75.00
Level VI- Technician time for Material Supplier Plant Observation and Evaluation of Supplied HMAC Materials (Rolling Patterns)	HR	\$ 65.00
Indirect Tensile Strength of HMAC Samples, 3 minimum, 1 hour of tech lab time and reporting.	EA	\$ 85.00

<b>Mortar and Grout Sampling and Testing</b>		
Vehicle Trip Charge, within city limits	TRIP	\$ 45.00
Grout Prisms Compressive Strength Testing: 4 prisms per set (Includes: 1 hr. tech-time, slump, temperature, pick-up charge, reporting, additional tech stand by time applied after 1 hour).	SET	\$ 250.00
Mortar Cubes Compressive Strength Testing: 3 cubes per set (Includes: 1 hr. tech-time, temperature, pick-up charge, reporting, additional tech stand by time applied after 1 hour).	SET	\$ 240.00
Compressive Strength of Masonry Units, per block	EA	\$ 85.00
Absorption of Masonry Units, per block	EA	\$ 50.00
Mortar / Grout Mix Designs	EA	AS REQUESTED

<b>Soils and Aggregates Sampling and Testing</b>		
Vehicle Trip Charge, within city limits	TRIP	\$ 65.00
Gradation	EA	\$ 45.00
Soundness, 5 cycles - Sodium or Magnesium	EA	\$ 250.00
LA Abrasion	EA	\$ 250.00
Micro-Deval Abrasion Test	EA	\$ 300.00
Acid Insoluble Residue for Fine Aggregates	EA	\$ 225.00
Sulfate Content of Soils - Colorimetric Method	EA	\$ 150.00
Specific Gravity and Absorption	EA	\$ 85.00
Clay Lumps/Friable Particles	EA	\$ 65.00
Flat/Elongated Particles	EA	\$ 60.00
Fractured Face Count	EA	\$ 60.00
Sampling of Aggregates and Base Materials	EA	\$ 100.00
<b>Other Technical Professional Services</b>		
"Call-Out" Basis - Site Steel Welding Observations - Certified Technician (CWI) Steel and Weld Observations, min. 4 hours per trip (Does not include equipment/rental such as scissor lifts or NDT Testing, if required).	HR	\$ 100.00
"Call-Out" Basis - Ultrasonic Testing - Certified Technician Steel and Weld Observations, min. 8 hours per trip (Does not include equipment/rental such as scissor lifts).	HR	\$ 100.00
UT Inspector Travel Costs and Per Diem to El Paso County Sites	TRIP	\$ 950.00
Soil Percolation Tests (does not include pipe costs, drilling or soil classification). Max. depth 15 feet.	EA	\$ 450.00
Seismic Refraction and Ground Penetrating Radar Evaluations	AT COST + 11%	AT COST + 11%
Deep Foundation Drilling and Placement Observation and Inspections.	HR	\$ 75.00
Pier or Auger Cast Pile Load Test Observations and Evaluation	HR	\$ 75.00
Grout Flow Testing	EA	\$ 15.00
Placement Observation and Testing of Engineering Fill Materials	HR	\$ 65.00
<b>Other Indirect Costs</b>		
Additional Printing, Copying and Plotting Costs		AT COST + 11%
Other Costs (Special Lab Testing, Shipping, Rental, or Equipment Insurance, etc.)		AT COST + 11%

**ATTACHMENT "E"**  
**INSURANCE CERTIFICATE**

**ATTACHMENT “F”**  
**FEDERAL PROVISIONS**

**NON-DISCRIMINATION PROVISIONS**

**A. Relocation Assistance:** The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects.

**B. Disability:**

- a) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et. Seq.), as amended, prohibits discrimination on the basis of disability; and 49 CFR Part 27.
- b) Titles II and III of the Americans with Disabilities Act, 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 U.S.C. §§ 12131-12189) as implemented by the Department of Transportation regulations at 49 C.F.R. parts 37 and 38.

**C. Age:** The Age Discrimination Act of 1974, as amended, (42 U.S.C. § 6101 et. Seq.), prohibits discrimination on the basis of age.

**D. Race, Creed, Color, National Origin, or Sex:**

- a) The Airport and Airway Improvement Act of 1982 (49 U.S.C. § 4.71, Section 4.7123), as amended, prohibits discrimination based on race, creed, color, national origin, or sex.
- b) The Federal Aviation Administration’s Nondiscrimination state (4 U.S.C. § 47123) prohibits discrimination on the basis of race, color, national origin, and sex.
- c) Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et. seq.), prohibits discrimination on the basis of sex.
- d) Title IX of the Education Amendments of 1972, as amended, prohibits discrimination because of sex in education program or activities (20 U.S.C. 1681 et. seq.).
- e)

**E. Civil Rights Restoration Act:** 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 and activities” to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not.

**F. Minority Populations:** Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority and low-income populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

**G. Limited English Proficiency:** 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). To ensure compliance with Title VI, the Engineer must take reasonable steps to ensure that LEP persons have meaningful access to its programs (70 Fed. Reg. at 74087 to 74100).

## **CIVIL RIGHTS COMPLIANCE**

**A. Compliance with Regulations:** The Consultant will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time.

**B. Nondiscrimination:** The Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Consultant 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 45 CFR Part 21.

**C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this contract and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

**D. Information and Reports:** The Consultant shall 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 facilities as may be determined by the State or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant will so certify to the State or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

**E. Sanctions for Noncompliance:** In the event of the Consultant's noncompliance with the Nondiscrimination provisions of this contract, the State will impose such contract sanctions as it or the Federal Highway Administration 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.

**F. Incorporation of Provisions:** The Consultant will include the provisions of paragraphs (A) through (E) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the State or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that

in the event an Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the Texas Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

**OFFICE OF MANAGEMENT AND BUDGET (OMB) AUDIT REQUIREMENTS**

The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR 200.

## **ADDENDUM I FEDERAL CLAUSES -- (PROFESSIONAL SERVICES)**

### **FEDERAL CLAUSES**

#### **FEDERAL FUNDING REQUIREMENTS**

The following provisions shall apply throughout the performance of this Agreement because federal funds are involved:

#### **ALL PROCUREMENT TYPES OR AMOUNTS**

##### **NO OBLIGATIONS BY THE FEDERAL GOVERNMENT**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

##### **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

31 U.S.C. 3801 et seq.

49 CFR Part 31 18 U.S.C. 1001

49 U.S.C. 5307

##### **Program Fraud and False or Fraudulent Statements or Related Acts.**

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5323, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(i) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance

provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

##### **ACCESS TO RECORDS AND REPORTS**

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

**Access to Records** - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

3. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

4. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.42(i)(11).

## FEDERAL CHANGES

### **49 CFR Part 18**

**Federal Changes** - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement MA18, dated October, 2011 between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

## CIVIL RIGHTS REQUIREMENTS

**29 U.S.C. § 623, 42 U.S.C. § 2000**

**42 U.S.C. § 6102, 42 U.S.C. § 12112**

**42 U.S.C. § 12132, 49 U.S.C. § 5332**

**29 CFR Part 1630, 41 CFR Parts 60 et seq.**

**Civil Rights** - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. §12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: 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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for

reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

### Americans with Disabilities:

The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the project, with the applicable laws and regulations, discussed below, for nondiscrimination on the basis of disability.

Page IV-14 FTA C 4220.1F (11/01/2008); Rev.1 - 04/14/2009; Rev.2 - 07/01/2010; Rev.3 - 02/15/2011 Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 U.S.C. Section 794, prohibits discrimination on the basis of disability by recipients of Federal financial assistance.

The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. Sections 12101 et seq., prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of transportation.

DOT Public Transportation Regulations implementing Section 504 and the ADA. These regulations include DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27, DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37, and Architectural and Transportation Barriers Compliance Board (ATBCB)/DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38. In addition the solicitation should also comply with: "DOT's ADA Standards for Transportation Facilities (2206)" and the DOT ADA Final Rule 10/19/2011.

Examples of requirements include, but are not limited to, the following:

1.Design and Construction. Accessibility requirements for the design and construction of new transportation facilities.

2.Accessibility and Usability. Requirements that vehicles acquired (with limited exceptions) be accessible to and usable by individuals with disabilities, including individuals using wheelchairs;

3.Equal Opportunity. Requirements for compliance with service requirements intended to ensure that individuals with disabilities are afforded equal opportunity to use transportation systems and services.

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

**49 CFR Part 26**

**Disadvantaged Business Enterprises**

1. **Policy:** It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises as defined in 49 CFR Part 26, and as amended in Section 1061(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with federal funds under this Agreement. Consequently, the DBE requirements of 49CFR Part 26 and Section 1061(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 apply to this Agreement.

2. **DBE Obligation:** The Contractor or its representative agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 and Section 1061(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this Agreement. In this regard, the Contractor or its representative shall take all the necessary and reasonable steps in accordance with 49 CFR Part 26 and Section 1061(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. The Contractor shall not discriminate on the basis of race, religion, color, national origin, age, disability, or sex in the award and performance of DOT-assisted contracts. Part 26 and Section 1061(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 apply to this Agreement.

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 9.1 %.

b. The contractor 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 this DOT-assisted contract. 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 City of El Paso deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)). The successful

**PROCUREMENTS OF PROFESSIONAL SERVICES OF \$10,000 OR MORE ANNUALLY**

**TERMINATION**

**49 U.S.C. Part 18  
FTA Circular 4220.1E**

a. **Termination for Convenience (General Provision)** The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The

offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

c. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from The City of El Paso. In addition, Contractor is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by The City of El Paso and contractor's receipt of the partial retainage payment related to the subcontractor's work.

d. The contractor must promptly notify The City of El Paso, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of The City of El Paso.

**ENERGY CONSERVATION REQUIREMENTS**

**42 U.S.C. 6321 et seq.**

**49 CFR Part 18**

**Energy Conservation** - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA)**

**TERMS**

**FTA Circular 4220.1E**

**Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

b. **Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract,

the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. 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.

If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. **Opportunity to Cure (General Provision)** The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. **Waiver of Remedies for any Breach** In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. **Termination for Convenience (Professional or Transit Service Contracts)** The (Recipient), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. **Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. 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 this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

g. **Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of

this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

h. **Termination for Default (Construction)** If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. the contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

i. **Termination for Convenience or Default (Architect and Engineering)** The (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall

terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

j. **Termination for Convenience of Default (Cost-Type Contracts)** The (Recipient) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall

state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

#### **PROCUREMENTS OF PROFESSIONAL SERVICES OF \$25,000 OR MORE ANNUALLY**

##### **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (Nonprocurement)**

**49 CFR Part 29  
Executive Order 12549**

##### **Suspension and Debarment**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its proposal, the proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the City of El Paso. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to the City of El Paso, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **PROCUREMENTS OF PROFESSIONAL SERVICES OF \$100,000 OR MORE ANNUALLY**

##### **BREACHES AND DISPUTE RESOLUTION**

**49 CFR Part 18  
FTA Circular 4220.1E**

**Disputes -** Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute -** Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages -** Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**Remedies -** Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or

in a court of competent jurisdiction within the State in which the (Recipient) is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

#### CLEAN AIR

42 U.S.C. 7401 et seq  
40 CFR 15.61  
49 CFR Part 18

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### LOBBYING

31 U.S.C. 1352  
49 CFR Part 19  
49 CFR Part 20

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or provide a proposal for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

### CLAUSES SPECIFIC TO PROCUREMENT CONDITIONS

#### CONFORMANCE WITH NATIONAL ITS ARCHITECTURE

*(ITS projects)*

ITS projects shall conform to the National ITS Architecture and standards in accordance with the requirements contained in this part. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 614).

#### FLY AMERICA REQUIREMENTS

*(Foreign air transportation/travel)*

49 U.S.C. §40118  
41 CFR Part 301-10

Fly America Requirements - The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are

required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

#### SEISMIC SAFETY REQUIREMENTS

*(A&E for new buildings and additions)*

42 U.S.C. 7701 et seq. 49  
CFR Part 41

Seismic Safety - The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the

standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

**SPECIAL NOTIFICATION REQUIREMENTS FOR STATES.**

To the extent required by Federal law, the State, as the Recipient, agrees to provide the following information about FTA funding for State Programs or Projects: a. Types of Information. It will provide information including: (1) Identification of FTA as the Federal agency providing the Federal funds for the Program or Project, (2) The Catalog of Federal Domestic Assistance Number of the Program from which the Federal funding for the Program or Project is authorized, and (3) The amount of Federal funds FTA has provided for the Program or Project, and b. Documents. It will provide the information required by this provision in the following documents: (1) Requests for proposals, (2) Solicitations, (3) Grant or cooperative agreement applications, (4) Forms, (5) Notifications, (6) Press releases, and (7) Other publications.

**PATENT AND RIGHTS IN DATA**

**37 CFR Part 401  
49 CFR Parts 18 and 19**

*(Contracts Involving Experimental, Developmental, Or Research Work.)*

**A. Rights in Data** - This following requirements apply to each contract involving experimental, developmental or research work:

1. The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

2. The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

a. Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

b. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this

clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

c. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

d. Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

e. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

f. Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause , provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

g. Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

3. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (*i.e.*, a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

4. The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

**B. Patent Rights** - This following requirements apply to each contract involving experimental, developmental, or research work:

1. *General* - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

2. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

3. The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.



# Management of TxDOT and FHWA Funded Programs

Professional Services Agreement



November 1, 2016

*"Delivering Outstanding Services"*



# Management of TxDOT and FHWA Funded Programs

## Background

- **Contract is to provide assistance in the development, implementation, and execution of federally and state funded projects**
- **Most activities to be reimbursable**
- **All Districts**



# Management of TxDOT and FHWA Funded Programs

## Scope of Work

- **The consultant firms will be responsible for:**
  - **Program management**
  - **Engineering Services**
  - **Land Acquisition**
  - **Construction Management**
- **Consultant to assure that eligible work is reimbursable**



# Management of TxDOT and FHWA Funded Programs

## Recommendation

- **The recommendation is to award contract to:**
  - **Atkins North America, Inc.**
  - **HNTB Corporation**
- **4-year term with two (2) one-year options to extend**



## Management of TxDOT and FHWA Funded Programs

- Both firms are equally qualified
- Separate firms for design and post-design
- Roles will be reversed for next project
- Goal is to equalize work as much as possible

*"Delivering Outstanding Services"*



## Management of TxDOT and FHWA Funded Programs

<b>Design</b>	<b>Post-Design</b>
<b>Project Initiation</b>	<b>Pre-Construction Coordination</b>
<b>Planning and Programming</b>	<b>Construction Management</b>
<b>Environmental Clearance</b>	<b>Contract Compliance</b>
<b>Utility Clearance</b>	<b>Construction Inspection</b>
<b>Right-of-Way Acquisition</b>	<b>Material Testing</b>
<b>Preliminary Engineering</b>	<b>Survey/Construction Staking</b>
<b>Develop Engineering Plans</b>	<b>Project Close-Out</b>
<b>12-13% of Project Cost</b>	<b>12-13% of Project Cost</b>

*"Delivering Outstanding Services"*



# Management of TxDOT and FHWA Funded Programs

## Example: Paso Del Norte Roundabout

Design: Consultant A	Post-Design: Consultant B
Estimated Cost: \$350,000	Estimated Cost: \$320,000



## Management of TxDOT and FHWA Funded Programs

# Questions/Comments

*"Delivering Outstanding Services"*