

CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: Engineering

AGENDA DATE: April 8, 2008

CONTACT PERSON/PHONE: R. Alan Shubert, City Engineer (X4423)

DISTRICT(S) AFFECTED: 1 & 8

SUBJECT:

Discussion and action on a resolution that the City Manager be authorized to sign a Professional Services Agreement between the **CITY OF EL PASO** and **WALTER P. MOORE & ASSOCIATES, INC.**, a Texas Corporation, to perform consulting services for a project known as "UPPER VALLEY TRAFFIC STUDY" for a contract amount of **FIVE HUNDRED NINETY SEVEN THOUSAND AND 00/100 DOLLARS (\$597,000.00)**, and that the City Engineer be authorized to approve up to \$50,000.00 in additional services, for a total contract amount not to exceed **SIX HUNDRED FORTY SEVEN THOUSAND AND 00/100 DOLLARS (\$647,000.00)**. **Funding-99331117-27263-508016-PST08002**

BACKGROUND / DISCUSSION:

Development both in Texas and New Mexico in the study area demands that plans be formulated for the construction of arterial corridors providing a Level of Service "C." The result of the study will identify traffic issues and make recommendations on the following: those intersections which slow traffic in the study area, new geometric design for specific intersections, improvements to the existing arterial network, and proposing new arterials. The consultant will also deliver network models, document the existing level of service, present specific street cross-sections, develop a phasing plan for proposed improvements, and provide cost estimates for those improvements.

PRIOR COUNCIL ACTION:

None

AMOUNT AND SOURCE OF FUNDING:

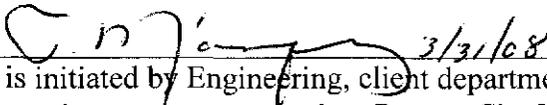
Funding location: DeptID: 99331117, Account: 508016, Fund: 27263, Project: PST08002
Funding Source is 2006 Certificates of Obligation

BOARD / COMMISSION ACTION:

N/A

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

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD:  3/31/08

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

APPROVED FOR AGENDA: _____

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

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

That the City Manager be authorized to sign a Professional Services Agreement between the **CITY OF EL PASO** and **WALTER P. MOORE & ASSOCIATES, INC.**, a Texas Corporation, to perform consulting services for a project known as "**UPPER VALLEY TRAFFIC STUDY**" for a contract amount of **FIVE HUNDRED NINETY SEVEN THOUSAND AND 00/100 DOLLARS (\$597,000.00)**, and that the City Engineer be authorized to approve up to \$50,000.00 in additional services, for a total contract amount not to exceed **SIX HUNDRED FORTY SEVEN THOUSAND AND 00/100 DOLLARS (\$647,000.00)**.

ADOPTED this _____ day of _____, 2008.

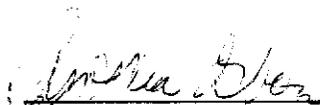
THE CITY OF EL PASO:

John F. Cook
Mayor

ATTEST:

Richarda Duffy-Momsen
City Clerk

APPROVED AS TO FORM:



Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:



R. Alan Shubert, P.E.
City Engineer

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

AN AGREEMENT FOR
PROFESSIONAL SERVICES

This Agreement is made this ____ day of _____, 2008 by and between the CITY OF EL PASO, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the “Owner”, and WALTER P. MOORE & ASSOCIATES, INC. a Texas Corporation, hereinafter referred to as the “Consultant”.

WHEREAS, the Owner intends to engage the Consultant to perform professional services for a project known as “UPPER VALLEY TRAFFIC STUDY,” hereinafter referred to as the “Project”, as further described in Attachment “A”; and

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

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

ARTICLE I.
ATTACHMENTS

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

| | |
|----------------|--|
| Attachment “A” | Scope of Services and Project Budget |
| Attachment “B” | Consultant’s Fee Proposal and Hourly Rates |
| Attachment “C” | Consultant’s Basic and Additional Services |
| Attachment “D” | Payment and Deliverable Schedules |

ARTICLE II.
PROJECT

2.1 The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform professional services for the Project as professional consultant for the Project. The Project shall consist of the Consultant’s completion of the Scope of Services as further described in Attachment “A”. Such Scope of Services shall be completed in accordance with the identified phases described in Attachment “D”.

2.2 In completion of such phases, the Consultant shall comply with the City of El Paso Engineering Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under the Design Phase of this Agreement. Such Guidelines are available in the Engineering Department.

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

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

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

ARTICLE III. CONSULTANT FEES AND PROJECT BUDGET

3.1 PAYMENT TO CONSULTANT. The Owner shall pay to the Consultant an amount not to exceed **FIVE HUNDRED NINETY SEVEN THOUSAND AND 00/100 DOLLARS (\$597,000.00)** for all basic services and reimbursables performed pursuant to this Agreement. The Consultant's fee proposal for the performance of all Basic Services and reimbursables is attached hereto as **Attachment "B"**. Payments to the Consultant shall be made pursuant to the schedule enumerated within **Attachment "D"**.

3.2 CONSULTANT'S SERVICES. The Basic Services to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C"**. If authorized by the City Engineer, prior to the performance of such services, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed \$50,000.00. Additional Services exceeding \$50,000.00 must have prior approval by City Council through written amendment to this Agreement. Owner shall make payment for such Basic and Additional Services at the rates established by Consultant within **Attachment "B"**.

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

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

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

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

ARTICLE IV. PERIOD OF SERVICE AND TERMINATION

4.1 PERIOD OF SERVICE. The services called for by each phase shall begin upon the issuance of a Notice to Proceed from the City Engineer. The Consultant shall complete the requested services in accordance with the timelines and schedules outlined in **Attachments "C" and "D."**

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

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

4.3.1 TERMINATION BY OWNER. It is mutually understood and agreed by the Consultant and Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days** written

notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the Owner's notice of termination. Owner shall compensate Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.

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

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

ARTICLE V. INSURANCE AND INDEMNIFICATION

5.1 INSURANCE. The Consultant shall have **seven (7) calendar days** from date of award to obtain sufficient insurance 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.

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

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

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

- a) **COMMERCIAL GENERAL LIABILITY**
 - Personal Injury or Death**
\$500,000.00 for one person or occurrence
\$1,000,000.00 for two or more persons or occurrences

 - Property Damage**
\$500,000.00 per occurrence

 - General Aggregate**
\$1,000,000.00

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

5.1.3 PROFESSIONAL LIABILITY INSURANCE. The Consultant shall procure and shall maintain, at the Consultant’s sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) on a claims made basis.

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

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

5.1.6 GENERAL INSURANCE PROVISIONS. All certificates 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.

5.2 INDEMNIFICATION. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless Owner, and Owner’s officers, directors, partners, agents consultants, and employees from and against any claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by any negligent act or omission of Consultant or Consultant’s officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. The Consultant shall not be responsible for any acts of any of the City’s Independent Project Managers.

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

5.2.1 CONSULTANT’S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS. Consultant shall procure and maintain insurance as required by and set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant’s officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as “Consultant”), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Consultant (hereafter “Owner’s Claims”), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant’s insurers in settlement or satisfaction of Owner’s Claims under the terms and conditions of Consultant’s insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner’s Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner’s claims shall not exceed \$250,000.00 per person or \$500,000.00 per incident with property damage liability limited to \$100,000.00 per incident.

**ARTICLE VI.
FEDERAL PROVISIONS**

6.1 COMPLIANCE WITH APPLICABLE LAWS - FEDERAL FUNDING REQUIREMENTS

Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with applicable laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the Owner or Consultant with respect to the use of federal 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, 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.

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

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

6.2 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.

ARTICLE VII. GENERAL PROVISIONS

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

7.2 OPINION OF PROBABLE COST. As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within **ten percent (10%)** of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent (10%)**, the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

7.3 CONSULTANT'S QUALITY OF WORK. The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional service. The Consultant's services shall be performed 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 in **Attachment "D"** and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner. 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.

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

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

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

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of

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

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

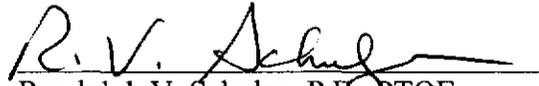
WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

CITY OF EL PASO:

Joyce Wilson, City Manager

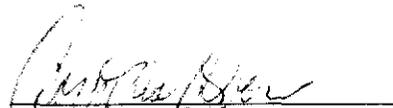
CONSULTANT:

Walter P. Moore & Associates, Inc.



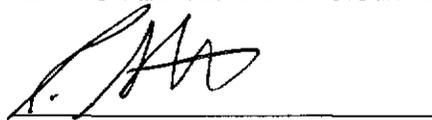
Randolph V. Schulze, P.E., PTOE
Principal

APPROVED AS TO FORM:



Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:



R. Alan Shubert
City Engineer

(Acknowledgements on following page)

ACKNOWLEDGEMENTS

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on this ____ day of _____, 2008,
by **Joyce A. Wilson, as City Manager of the City of El Paso, Texas.**

Notary Public, State of Texas

My commission expires:

THE STATE OF TEXAS §
§
COUNTY OF EI PASO §

This instrument was acknowledged before me on this 28th day of March, 2008,
by **Randolph V. Schulze, P.E., PTOE, as Principal of Walter P. Moore & Associates, Inc.**



Elena Rosilez
Notary Public, State of Texas

My commission expires:

October 31, 2009

ATTACHMENT "A"
PROJECT SCOPE

TITLE: **Upper Valley Traffic Study**

STUDY LIMITS: **Upper Valley Area:**
 West of I-10 to New Mexico State Line
 Paisano to Borderland

GENERAL DESCRIPTION/DELIVERABLES:

The Consultant shall conduct a study within the area described in the attached map. Projections and proposed improvements shall include projected growth in the northwest sector of the City related to residential and commercial development in and around the City of Sunland Park including existing and planned connections to the Santa Teresa port of entry, new entertainment complexes and other projected traffic generators. The study shall also consider proposed improvements along I-10, Doniphan and Paisano planned by the Texas Department of Transportation. Proposed improvements shall be phased, with major milestones at 2017, 2025 and 2035. Phased improvements will be designed to maintain a level of service (LOS) C or better at all times during the study horizon.

All improvements recommended must be evaluated using federal guidelines that will allow the city to seek and secure federal funding. Environmental concerns must also consider the existing character of the area and must strive to maintain that character.

Study shall:

- Provide existing capacity and LOS of arterial corridors and intersections identifying bottlenecks in the system.
- Recommend geometric improvements at intersections listed in exhibit B
- Recommend new arterial location alternatives to meet demand at LOS C, including:
 - Improving existing arterial network
 - New arterials
 - Geometric improvements
 - Proposed cross-sections
 - Proposed phasing of improvements
- Recommend infrastructure to incorporate multi-modal transportation alternatives

Consultant shall provide:

- Network model for area for each milestone
- Existing level of service
- Level of service considering proposed phasing of improvements
- Geometric improvement schematics and phasing
- Cross-sections for improvements to network

- Phasing plan for improvements including milestones
- Estimates for all proposed improvements
- Photo-morphing to various milestone points for improvements
- Technical support to City at a minimum of 4 public meetings

City will provide current traffic counts for major arterials within study area.

Streets to be included in the study area are:

- a. Artcraft
- b. Westside
- c. Gomez Road
- d. Upper Valley
- e. Redd Road
- f. Montoya
- g. Country Club
- h. Sunset
- i. Sunland Park Drive
- j. Doniphan Drive
- k. Other Potential Connectors

GENERAL REQUIREMENTS AND CRITERIA:

1. Recommendations must meet all applicable City Codes and Ordinances.
2. Recommendations must comply with all local, state and federal laws and regulations, including but not limited to the Americans with Disabilities Act.
3. Submittals shall include electronic media copies in a format approved by the City
4. Work will be coordinated through the Engineering Department.

PROJECT SCHEDULE: (Consecutive Calendar Days)

| | |
|-----------------------|----------|
| Draft Study Submittal | 180 days |
| Final Study Submittal | 30 days |

ATTACHMENT "B"

WALTER P MOORE

March 19, 2008

Ms. Irene Ramirez, P.E.
Assistant City Engineer
2 Civic Center Plaza, Fourth Floor
El Paso, Texas 79901

Re: Professional Engineering Services
Upper Valley Traffic Study
El Paso, Texas

Dear Ms. Ramirez:

This letter and enclosures are in response to your request for detail information regarding our fee proposal and an itemization of the breakdown of our general and administrative overhead multiplier and our profit markup. We are providing this information for Walter P Moore and, in addition, have enclosed a breakdown for each of our subconsultants.

We propose to complete this project for an estimated fee of \$577,000. This amount does not include reimbursable costs such as local mileage, reproduction, presentation materials for meeting, travel expenses, subsistence, etc. These costs are estimated at \$20,000

Please contact me if there are questions related to the letter. I am looking forward to providing these services to the City.

Sincerely,

WALTER P. MOORE AND ASSOCIATES, INC.



Lourdes Cardenas, P.E.
Managing Director, El Paso Traffic/ITS Engineering Services

Uper Valley Traffic Study

Fee Proposal

| Task | Task Description | WPM Hr | WPM \$/H | WPM \$ | M - C | H | M - C | H | M - C | AIA Hr | AIA \$/H | AIA \$ | SM Hr | SM \$/H | SM \$ | Total Hrs | Total \$ |
|------|--|--------|----------|--------|-------|------|--------|-----|-------|---------|----------|--------|-------|---------|----------|-----------|-----------|
| 1 | Data Collection | | | | | | | | | | | | | | | | |
| | New machine counts | 0 | 122.8 | 0 | 0 | 92.5 | 0 | 40 | 96.32 | 3852.8 | 0 | 0 | 0 | 0 | 0 | 40 | 3852.8 |
| | New turning movement counts | 0 | 122.8 | 0 | 0 | 92.5 | 0 | 128 | 96.32 | 12329.6 | 0 | 0 | 0 | 0 | 0 | 128 | 12329.6 |
| | ROW information | 0 | 122.8 | 0 | 27 | 92.5 | 2497.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 27 | 2497.5 |
| | Property Information | 16 | 122.8 | 1964.8 | 27 | 92.5 | 2497.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 43 | 4462.3 |
| | Major Utilities | 0 | 122.8 | 0 | 27 | 92.5 | 2497.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 27 | 2497.5 |
| | Drainage Infrastructure | 0 | 122.8 | 0 | 27 | 92.5 | 2497.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 27 | 2497.5 |
| | Existing Topography | 0 | 122.8 | 0 | 27 | 92.5 | 2497.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 27 | 2497.5 |
| | Contacts with developers and Map development | 16 | 122.8 | 1964.8 | 27 | 92.5 | 2497.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 43 | 4462.3 |
| | Contacts with government agencies | | | | | | | | | | | | | | | | |
| | MPO | 16 | 122.8 | 1964.8 | 8 | 92.5 | 740 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 24 | 2704.8 |
| | TxDOT | 8 | 122.8 | 982.4 | 8 | 92.5 | 740 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 16 | 1722.4 |
| | NMDOT | 16 | 122.8 | 1964.8 | 4 | 92.5 | 370 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 20 | 2334.8 |
| | City of Sunland Park | 8 | 122.8 | 982.4 | 4 | 92.5 | 370 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 12 | 1352.4 |
| | Santa Teresa | 8 | 122.8 | 982.4 | 4 | 92.5 | 370 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 12 | 1352.4 |
| | El Paso County | 16 | 122.8 | 1964.8 | 8 | 92.5 | 740 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 24 | 2704.8 |
| | Dona Ana County | 16 | 122.8 | 1964.8 | 8 | 92.5 | 740 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 24 | 2704.8 |
| | Existing roadway conditions | 8 | 122.8 | 982.4 | 80 | 92.5 | 7400 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 88 | 8382.4 |
| | Existing signal timing and phasing | 0 | 122.8 | 0 | 0 | 92.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Crash data | 0 | 122.8 | 0 | 0 | 92.5 | 0 | 8 | 96.32 | 770.56 | 0 | 0 | 0 | 0 | 0 | 8 | 770.56 |
| | Existing counts | 0 | 122.8 | 0 | 0 | 92.5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Maps | 0 | 122.8 | 0 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 40 | 3700 |
| | Land Use | 0 | 122.8 | 0 | 24 | 92.5 | 2220 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 24 | 2220 |
| | Previous Studies | 0 | 122.8 | 0 | 8 | 92.5 | 740 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 8 | 740 |
| 2 | Forecasting | | | | | | | | | | | | | | | | |
| | TransCad | | | | | | | | | | | | | | | | |
| | 2017 | 350 | 122.8 | 42980 | 0 | 0 | 0 | 16 | 115.9 | 1854.24 | 0 | 0 | 0 | 0 | 0 | 366 | 44834.24 |
| | 2025 | 350 | 122.8 | 42980 | 0 | 0 | 0 | 16 | 115.9 | 1854.24 | 0 | 0 | 0 | 0 | 0 | 366 | 44834.24 |
| | 2035 | 350 | 122.8 | 42980 | 0 | 0 | 0 | 16 | 115.9 | 1854.24 | 0 | 0 | 0 | 0 | 0 | 366 | 44834.24 |
| | Trip Generation | | | | | | | | | | | | | | | | |
| | 2017 | 16 | 122.8 | 1964.8 | 0 | 0 | 0 | 32 | 96.32 | 3082.24 | 0 | 0 | 0 | 0 | 0 | 48 | 5047.04 |
| | 2025 | 16 | 122.8 | 1964.8 | 0 | 0 | 0 | 32 | 96.32 | 3082.24 | 0 | 0 | 0 | 0 | 0 | 48 | 5047.04 |
| | 2035 | 16 | 122.8 | 1964.8 | 0 | 0 | 0 | 32 | 96.32 | 3082.24 | 0 | 0 | 0 | 0 | 0 | 48 | 5047.04 |
| 3 | Synchro Analysis | | | | | | | | | | | | | | | | |
| | 2017 | 10 | 122.8 | 1228 | 0 | 0 | 0 | 160 | 96.32 | 15411.2 | 0 | 0 | 0 | 0 | 0 | 170 | 16639.2 |
| | 2025 | 10 | 122.8 | 1228 | 0 | 0 | 0 | 40 | 96.32 | 3852.8 | 0 | 0 | 0 | 0 | 0 | 50 | 5080.8 |
| | 2035 | 10 | 122.8 | 1228 | 0 | 0 | 0 | 40 | 96.32 | 3852.8 | 0 | 0 | 0 | 0 | 0 | 50 | 5080.8 |
| 4 | VISSIM Modeling | | | | | | | | | | | | | | | | |
| | 2017 | 160 | 122.8 | 19648 | 0 | 0 | 0 | 20 | 96.32 | 1926.4 | 0 | 0 | 0 | 0 | 0 | 180 | 21574.4 |
| | 2025 | 160 | 122.8 | 19648 | 0 | 0 | 0 | 20 | 96.32 | 1926.4 | 0 | 0 | 0 | 0 | 0 | 180 | 21574.4 |
| | 2035 | 160 | 122.8 | 19648 | 0 | 0 | 0 | 20 | 96.32 | 1926.4 | 0 | 0 | 0 | 0 | 0 | 180 | 21574.4 |
| 5 | Recommend infrastructure to incorporate multi-modal transportation alternatives (Geometric improvement schematics and phasing) | | | | | | | | | | | | | | | | |
| | 2017 | 20 | 122.8 | 2456 | 220 | 92.5 | 20350 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 240 | 22806 |
| | 2025 | 20 | 122.8 | 2456 | 172 | 92.5 | 15910 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 192 | 18366 |
| | 2035 | 20 | 122.8 | 2456 | 172 | 92.5 | 15910 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 192 | 18366 |
| 6 | Cost Estimates | | | | | | | | | | | | | | | | |
| | 2017 | 12 | 122.8 | 1473.6 | 60 | 92.5 | 5550 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 72 | 7023.6 |
| | 2025 | 8 | 122.8 | 982.4 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 48 | 4682.4 |
| | 2035 | 8 | 122.8 | 982.4 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 48 | 4682.4 |
| 7 | Context Sensitive Solutions | | | | | | | | | | | | | | | | |
| | CSS for new alignments | 120 | 122.8 | 14736 | 8 | 92.5 | 740 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 128 | 15476 |
| | CSS for upgrades on existing alignments | 120 | 122.8 | 14736 | 8 | 92.5 | 740 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 128 | 15476 |
| | Traffic Calming on Existing Routes | 60 | 122.8 | 7368 | 8 | 92.5 | 740 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 68 | 8108 |
| | Pedestrian-bicycle improvements in area | 40 | 122.8 | 4912 | 8 | 92.5 | 740 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 48 | 5652 |
| 8 | Public Involvement | | | | | | | | | | | | | | | | |
| | Presentation Materials | | | | | | | | | | | | | | | | |
| | Kickoff Meeting (PI meeting #1) | 12 | 122.8 | 1473.6 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 52 | 5173.6 |
| | Presentation of Preliminary Results (PI Meeting No. 2) | 12 | 122.8 | 1473.6 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 52 | 5173.6 |
| | City Council Presentation (PI Meeting # 3) | 12 | 122.8 | 1473.6 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 52 | 5173.6 |
| | Final Presentations (PI Meeting # 4) | 12 | 122.8 | 1473.6 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 52 | 5173.6 |
| | Public Involvement Meetings | | | | | | | | | | | | | | | | |
| | Kickoff Meeting (PI meeting #1) | 32 | 122.8 | 3929.6 | 16 | 92.5 | 1480 | 8 | 96.32 | 770.56 | 40 | 150 | 6000 | 96 | 12180.16 | | |
| | Presentation of Preliminary Results (PI Meeting No. 2) | 32 | 122.8 | 3929.6 | 16 | 92.5 | 1480 | 8 | 96.32 | 770.56 | 40 | 150 | 6000 | 96 | 12180.16 | | |
| | Two City Council Presentation (PI Meeting # 3) | 32 | 122.8 | 3929.6 | 8 | 92.5 | 740 | 8 | 96.32 | 770.56 | 50 | 150 | 7500 | 98 | 12940.16 | | |
| | Final Presentations (PI Meeting # 4) | 32 | 122.8 | 3929.6 | 16 | 92.5 | 1480 | 8 | 96.32 | 770.56 | 40 | 150 | 6000 | 96 | 12180.16 | | |
| 9 | Monthly progress meetings | 32 | 137.5 | 4400 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 32 | 4400 |
| 10 | Project Management | 130 | 166 | 21580 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 130 | 21580 |
| 11 | Reporting | | | | | | | | | | | | | | | | |
| | Meeting notes (after each meeting) | 16 | 122.8 | 1964.8 | 16 | 92.5 | 1480 | 16 | 48.16 | 770.56 | 0 | 0 | 0 | 0 | 0 | 48 | 4215.36 |
| | Progress reports (submitted with each invoice) | 16 | 122.8 | 1964.8 | 16 | 92.5 | 1480 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 32 | 3444.8 |
| | Technical memoranda | 80 | 122.8 | 9824 | 24 | 92.5 | 2220 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 104 | 12044 |
| | 30% report | 16 | 122.8 | 1964.8 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 56 | 5664.8 |
| | 75% report | 16 | 122.8 | 1964.8 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 56 | 5664.8 |
| | Draft Final Report | 80 | 122.8 | 9824 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 120 | 13524 |
| | QA/QC | 60 | 137.5 | 11000 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 120 | |
| | Final Report | 40 | 122.8 | 4912 | 40 | 92.5 | 3700 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 80 | 8812 |
| | | 2846 | | | 1566 | | | 668 | | | | | 170 | | | 5250 | 576916.76 |

**Upper Valley Traffic Study
Proposed Walter P Moore Billing Rates**

The following billing rates are based on actual salaries, a general administrative overhead rate of 166%, and a profit rate of 10%.

This results in an overall multiplier of 2.98 times labor cost.

| Project Role | Salary | Billing Rate |
|-----------------------|---------|--------------|
| Principal | \$55.30 | \$161.81 |
| Team Director | \$46.65 | \$136.50 |
| Senior Engineer | \$45.25 | \$132.40 |
| Engineer | \$32.75 | \$95.83 |
| Graduate Engineer | \$28.00 | \$81.93 |
| Senior CAD Technician | \$26.80 | \$78.42 |
| Intern | \$22.00 | \$64.37 |
| CAD Technician | \$15.75 | \$46.08 |
| Clerical | \$15.00 | \$43.89 |

Reimbursables will be billed at cost.

Private vehicle mileage will be billed at \$0.485 per mile.

Our fee multiple is calculated as follows.

Our fee is the sum of A, B, and C.

A = raw labor rate

B is our raw labor rate times our overhead rate. We are using an overhead rate of 166% for this project.

C is our profit (10%) times the sum of A and B.

If the raw labor rate for a category is L, then the billing rate for that person is

$$L + 1.66*L + 0.10*(L + 1.66*L)$$

Simplifying this results in a billing rate that is 2.926 times the direct labor rate.

ATTACHMENT "C"
CONSULTANT'S BASIC AND ADDITIONAL SERVICES

For the Project known as "UPPER VALLEY TRAFFIC STUDY," hereinafter referred to as the Project, the Consultant will provide the Basic and Additional Services as noted herein.

BASIC SERVICES OF THE CONSULTANT

GENERAL

1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
2. The Consultant shall comply with the City of El Paso Engineering Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under the design phases of this Agreement.
3. The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with a project within the allocated budget. The Owner's review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

REPORT PHASE

1. Upon receipt of the Owner's written authorization to proceed with the **Report Phase**, the Consultant shall:
 - a. Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.
 - b. Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.
 - c. (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's representative in connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

ATTACHMENT "C"
CONSULTANT'S BASIC AND ADDITIONAL SERVICES

- d. Prepare a Preliminary Study and Report on the Project based on the mutually accepted program in sufficient detail to indicate clearly the problems involved and the alternative solutions available to the Owner, to include schematic layouts, sketches, flow diagrams and reports of studies, and a general opinion of probable construction costs for such of the above listed improvements to be included in the Project, and to set forth the Consultant's recommendations.
- e. As per Attachment "D", furnish the Preliminary Study and Report and a general opinion of probable construction cost opinion to the Owner.
2. Upon receipt of the Preliminary Study and Report and before the Consultant is authorized to proceed with the Preliminary Design Phase, the Owner at its option may designate in writing various construction contracts into which the Project shall be divided, each of which may include one or more of the above listed improvements to be constructed. If the Owner designates various construction contracts into which the Project is to be divided, the Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, and final design drawings, specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
3. As identified in the Scope of Work in Attachment "A", the Consultant shall investigate the extent and character of any potential soil or water contamination on the properties identified in the Scope of Work, conduct asbestos investigations, environmental site assessments, and provide other environmental engineering services as required and authorized. Services not included in the original scope of work shall be considered Additional Services. The Consultant shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement, applicable Texas Commission on Environmental Quality and Texas Department of State Health Services Regulations, and any and all applicable state, federal and local laws. The Consultant shall develop an Investigation Plan for the identified properties. Upon approval of the Investigation Plan by the City, the City shall arrange to issue a Notice to Proceed for the Consultant to proceed in relation to an identified property.

ADDITIONAL SERVICES OF THE CONSULTANT

GENERAL

If Authorized by the City Engineer prior, to the performance of such services, the Consultant may perform or obtain Additional Services noted below, which are not covered within the Agreement, in an amount not to exceed \$50,000.00. Additional Services exceeding \$50,000.00 must have prior approval by City Council through written amendment to this Agreement. The owner shall pay for such Additional Services as indicated in the Agreement.

ATTACHMENT "C"
CONSULTANT'S BASIC AND ADDITIONAL SERVICES

1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
2. Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
3. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by **ten percent** or more.
4. Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.
5. Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.
6. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.
7. Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein
8. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.
9. Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.
10. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
11. Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.

ATTACHMENT "C"
CONSULTANT'S BASIC AND ADDITIONAL SERVICES

12. Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.
13. Provide additional or extended services during construction made necessary by: **a)** work damaged by fire or other cause during construction; **b)** prolongation of the construction contract time by more than **twenty-five percent** provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; **c)** Acceleration of the work schedule involving services beyond normal city working hours; or **d)** the construction contractor's default under the construction contract due to delinquency or insolvency.
14. Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.
15. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.
16. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

RESIDENT PROJECT SERVICES

1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.
2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.
3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

ATTACHMENT "D"
PAYMENT AND DELIVERABLE SCHEDULES

For the Project known as "UPPER VALLEY TRAFFIC STUDY", hereinafter referred to as the Project, the Owner will compensate the Consultant an amount not to exceed **FIVE HUNDRED NINETY SEVEN THOUSAND AND 00/100 DOLLARS (\$597,000.00)** for all Basic Services and reimbursables noted within the Agreement and its attachments.

PAYMENT SCHEDULE

The compensation for each phase of the basic services on each construction contract shall be made in proportion to the services performed for that phase, so that the compensation made after the approved completion of each phase shall bring the fee up to the following percentages of the total basic compensation:

| | Percent of Payment to Consultant | Percent of Project Completion |
|---------------------|---|--|
| Report Phase | 100% | 100% |

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and accompanying Summary and Progress Report and the Owner's written approval.

DELIVERABLE SCHEDULE

REPORT PHASE

The services called for in the Report Phase of this Agreement shall be completed and **five copies** of the Draft Study and Report shall be submitted within **180 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed.

The Final Study will be due **30 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed.