

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

DEPARTMENT: MPO

AGENDA DATE: May 31, 2011

CONTACT PERSON NAME AND PHONE NUMBER: Isela Perez, 591-9735 x 14

DISTRICT(S) AFFECTED: All

SUBJECT:

That the Mayor be authorized to sign an Interlocal Agreement by and between the City of El Paso, Texas ("City"), acting in its capacity as the fiscal agent to the Metropolitan Planning Organization for the El Paso Urban Transportation Study Area ("MPO"), and the University of Texas at El Paso ("UTEP"), whereby UTEP agrees to provide technical support to the MPO in relation to the Rider 8 Texas Commission on Environmental Quality Grant Program.

BACKGROUND / DISCUSSION:

The Rider 8 program consists of a work plan for air quality planning activities to reduce ozone in the El Paso area approved by the Texas Commission on Environmental Quality (TCEQ). These activities may include identifying, inventorying, and monitoring, and modeling pollution levels and the identification, quantification, and implementation of appropriate pollution-reduction controls. The TCEQ is to channel those activities most useful for the State Implementation Plan.

PRIOR COUNCIL ACTION:

None

AMOUNT AND SOURCE OF FUNDING:

\$404,000, Account 502215, Fund 05028, Grant 582-11-11176, Dept. ID 68150009, No budget transfer required.

BOARD / COMMISSION ACTION:

The Transportation Policy Board for the MPO approved the Rider 8 program on November 05, 2010.

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

DEPARTMENT HEAD:

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

Information copy to appropriate Deputy City Manager

RESOLUTION

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

That the Mayor be authorized to sign an Interlocal Agreement by and between the City of El Paso, Texas ("City"), acting in its capacity as the fiscal agent to the Metropolitan Planning Organization for the El Paso Urban Transportation Study Area ("MPO"), and the University of Texas at El Paso ("UTEP"), whereby UTEP agrees to provide technical support to the MPO in relation to the Rider 8 Texas Commission on Environmental Quality Grant Program.

ADOPTED this ____ day of _____, 2011.

THE CITY OF EL PASO

John F. Cook
Mayor

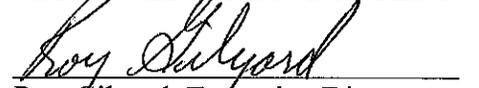
ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:


Sylvia Borunda Firth
Senior Assistant City Attorney

APPROVED AS TO CONTENT:


Roy Gilyard, Executive Director
Metropolitan Planning Organization

subcontract to the CITY's Grant from TCEQ, and that the terms and conditions of the Grant control the administration and execution of this agreement.

- a. The TCEQ Grant is incorporated into this agreement by reference.
- b. In the event any provision of this agreement conflicts with the terms of the Grant, the terms of the Grant control the administration and execution of this agreement.
- c. UTEP agrees to comply with all requirements imposed by TCEQ that are applicable to subcontractors.
- d. UTEP agrees to conduct all of its activities in compliance with the terms of the Grant, and not to take any action that would cause the CITY to default or contribute to the CITY's defaulting upon the terms of the Grant.
- e. UTEP shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of all services and other work furnished by UTEP under this agreement. UTEP must perform the work in conformity with the standards and guidance documents provided by the TCEQ. The CITY may withhold reimbursement for costs of non-conforming work.

2. **SCOPE OF SERVICES**

UTEP agrees to use its best efforts to complete the work described as the responsibility of the "Performing Party" in Attachment "A," which describes the specific elements of the projects and deliverables and other types of air quality planning activities and projects that UTEP, as the CITY's subcontractor, shall complete by August 31, 2011.

3. **TERM**

The Term of this Agreement shall begin on June 1, 2011, and shall end on August 31, 2011. The term of this agreement may be extended upon the written approval of both parties, as provided in paragraph 4 herein.

4. **OPTIONS TO EXTEND**

CITY is hereby granted the option to extend this Agreement for a one (1) year term. In the event CITY elects to exercise such option, the consideration payable to UTEP during such extension shall be the amount specified under Year 2 in the Budget Summary, attached hereto as Attachment "B," and incorporated herein by reference.

In order to exercise the option, the Executive Director of the Metropolitan Planning Organization shall provide written notice to UTEP thirty (30) days prior to the expiration of the initial term.

5. **COMPENSATION AND METHOD OF PAYMENT**

The consideration to be paid to UTEP during the initial term shall be as described under Year 1 in Attachment "B," and shall not exceed FOUR HUNDRED FOUR THOUSAND AND NO/100 DOLLARS (\$404,000.00). UTEP agrees that at no time shall it make a claim against CITY for more than the amount provided under the terms of this Agreement. Periodic payments will be made to UTEP within thirty (30) days following the monthly submittal of invoices and time sheets, accompanied by a progress report based on previously approved work assignments by the MPO office.

UTEP acknowledges that this agreement is funded exclusively from funds made available to the CITY by the Grant. The CITY's obligation is limited by the provisions of the Grant. The CITY is not liable to make payment to UTEP if funding is not available from TCEQ through the Grant.

6. **CERTIFICATION**

CITY hereby certifies that the services to be provided by UTEP are necessary and essential activities that are properly within the statutory functions and programs of the respective state and local entities.

7. **APPLICABLE LAWS**

UTEP shall perform all services under this Agreement in accordance with all applicable local, state, and federal laws and regulations.

8. **INDEPENDENT CONTRACTOR**

Nothing contained herein shall be construed as creating the relationship of employer and employee between CITY and UTEP.

9. **ASSIGNMENT**

The services to be provided under this Agreement are specific to UTEP and shall not be assigned or delegated without the prior written consent of CITY. Any attempt to assign without the prior written consent of CITY shall be void and may, at the option of CITY, result in a termination of this Agreement.

10. **TERMINATION**

- A. Either party may terminate this Agreement if the other is in default upon five (5) days written notice to the other party, provided that the other party shall be given a reasonable time to cure said default. CITY and UTEP may terminate this Agreement upon thirty (30) days written notice to the other party.
- B. Termination shall be without prejudice to any obligation by one party to the other, which shall have accrued and be owing prior thereto.
- C. Upon termination, UTEP shall return any materials belonging to CITY, such as all drawings, plans, records, and other materials, which are currently in UTEP's possession.

11. **NOTICES**

All notices, communications and reports under this Agreement shall be hand-delivered or mailed, certified, return receipt requested, to the respective parties at their respective addresses shown below, unless and until either party is otherwise notified in writing by the other party:

CITY: Executive Director
Metropolitan Planning Organization
10767 Gateway Blvd. West, Suite 605
El Paso, Texas 79968

UTEP: Vice President for Research and Sponsored Projects
University of Texas at El Paso
500 W. University Ave.
Admin. Bldg., Rm. #209
El Paso, Texas 79968

12. **WAIVER**

Action or inaction by either party regarding any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

13. **DISCRIMINATION**

- A. **Discrimination Prohibited:** No person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under

any programs or activity funded in whole or in part with funds made available to UTEP pursuant to the terms of this Agreement, or any written amendment hereto.

- B. Specific Discriminatory Actions prohibited: UTEP may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, creed, color, sex, national origin, age or disability, or having the effect of defeating or substantially impairing accomplishments of the objectives of the programs funded pursuant to this Agreement or any written amendment hereto with respect to individuals of a particular race, color, national origin, creed, sex, age or disability.

14. **NO VERBAL AGREEMENT**

This Agreement contains all commitments and agreements of the parties hereto, and no verbal or other written commitment shall have any force or effect if not contained herein.

15. **VENUE**

The parties hereto agree that this Agreement shall be enforceable in El Paso, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in El Paso County, Texas

16. **CONTRACT INTERPRETATION**

In interpreting the various provisions of this Agreement in a court of law, any court having jurisdiction shall apply the laws of the State of Texas to interpret the terms and provisions in this Agreement.

17. **SEVERABILITY**

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Agreement a provision which preserves the intention of the unenforceable provision, but which complies with the law.

18. **CAPTIONS**

The captions to the various paragraphs of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement in the City of El Paso to be effective on the date and year first above written.

THE CITY OF EL PASO, in its capacity
as **THE EL PASO METROPOLITAN
PLANNING ORGANIZATION**:

By: _____
John F. Cook
Mayor

ATTEST:

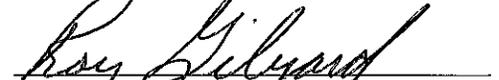
Richarda Momsen
City Clerk

APPROVED AS TO FORM:



Sylvia Borunda Firth
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

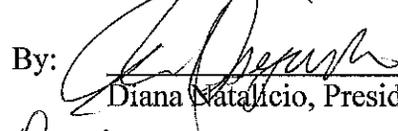


Roy Gilyard, Executive Director
Metropolitan Planning Organization



Eduardo Miranda
MPO Legal Counsel

**THE UNIVERSITY OF TEXAS
AT EL PASO ("UTEP")**

By: 

Diana Natalicio, President


ATTACHMENT A

Rider 8 Work Plan

Task 3: Prepare Conceptual Model through the 2009 Ozone Season

The Performing Party shall identify necessary and sufficient conditions for high or exceeding ozone measurements in their program area (defined as the immediate statistical area plus adjacent counties) at the Ozone National Ambient Air Quality Standard. The Performing Party's analyses shall include any seasonal variations and use data through 2009 to the extent possible. In particular, the Performing Party's conceptual model will include the following analyses:

- Evaluate the wind speeds, directions and time of day associated with high ozone events to determine the local conditions and source alignments most frequently associated with high ozone events.
- Develop 24 hour back trajectories for the ozone standard (and for ozone less than 60 ppb) to determine source regions most (and least) likely to affect local area ozone.
- Conduct a weekday/weekend analysis to evaluate the potential effectiveness of reduced levels of local industrial and mobile source activity on their area;
- Evaluate the range and average background ozone concentrations associated with local wind directions. It will be necessary to determine directional and seasonal frequency;
- Investigate ozone and precursor trends and estimate the annual frequency of high ozone;
- Address additional relevant questions listed in Section 11.1.1 of EPA's ozone modeling guidance document, *Guidance on the Use of Models and Other Analyses to Demonstrating Attainment of Air Quality goals for Ozone, PM2.5, and Regional Haze*.

Deliverable: The Performing Party shall deliver an updated Conceptual Model containing analysis of monitoring and other data through 2009. The conceptual model shall be delivered to the TCEQ in a Microsoft Office Word and Adobe Acrobat Reader (*.pdf) format. Accompanying data and other supporting material shall be provided in a mutually agreeable electronic format.

Task 4: Ambient Monitoring Projects

The Performing Party agrees that the TCEQ shall withhold \$30,000 from the funds allotted for this grant to provide operational funding for an Automated Gas

Chromatograph monitoring instrument to be sited in the El Paso area through August 31, 2011.

- 4.1 The Performing Party shall prepare a proposal for enhanced upwind and downwind background monitoring sufficient to show the background levels of ozone, NO_x and SO₂ entering and leaving a program area. The proposal may include additional instrumentation at existing monitoring sites, movement of current monitoring sites, or development of additional sites, but in no case shall the proposal result in a net decrease of monitoring sites funded by the Performing Party within the program area.

Deliverable: Enhanced Monitoring Proposal. The monitoring proposal shall be delivered to the TCEQ in a Microsoft Office Word and Adobe Acrobat Reader (*.pdf) format.

- 4.2 The TCEQ and Performing Party will both review the Performing Party's Enhanced Monitoring Proposal and Conceptual Model and develop a mutually agreeable set of requirements for any new monitoring equipment needed for the 2011 ozone season. If a mutual agreement cannot be reached, then the Performing Party shall deploy monitoring equipment at the direction of the TCEQ.

Deliverable: New monitoring equipment deployed at the TCEQ's direction in time to monitor ozone, ozone precursors, or meteorology on a continuous basis for the 2011 ozone season.

Task 5: Emissions Inventories Improvement

- 5.1 The Performing Party shall review the Area and Non-Road portions of the 2005 and 2008 National Emissions Inventories provided for each area by the TCEQ. The Performing Party shall identify any significant source categories that it believes to be under or over estimated, accompanied by high levels of uncertainty, or where the Performing Party believes it can provide additional or more detailed emissions inventory input at a sub-county level of analysis.

Deliverable: The Performing Party shall deliver an Emissions Inventory Improvement Review. The inventory improvement review shall be delivered to the TCEQ in a Microsoft Office Word and Adobe Acrobat Reader (*.pdf) format. In this review, the Performing Party shall identify up to five emissions sources that it feels can be improved and develop a plan to provide improved 2005 and 2008 emissions inventories for those sources. The review shall describe the proposed methodology, including any survey design, and any background the Performing Party feels is relevant to the project. Any supporting data or information shall be provided in like format or in a format agreed to by the TCEQ and the Performing Party. This work shall only represent the planning phase of proposed updates to the non-road section of the emission inventory.

- 5.2 The Performing Party shall implement emissions inventory improvements for any sources for which improvement plans were developed in Task 6.1.

Deliverable: The Performing Party shall prepare a report documenting the emissions inventory improvement projects and providing the information necessary to update TCEQ modeling files for the 2008 baseline scenario. The Performing Party shall work with the TCEQ to insert improved local emissions inventory data in to the 2008 baseline and future year emissions inventories for the selected photochemical modeling episode. The report will describe the steps taken, any significant deviations from the previously developed plan, and any background the Performing Party feels is relevant to the project. The Performing Party shall provide the report in Microsoft Office Word and Adobe Acrobat Reader (*.pdf) formats. Any supporting data or information shall be provided in like format or in a format agreed to by the TCEQ and the Performing Party.

Task 6: Air Quality Modeling Planning for FY2011

During the Phase II period (ending August 31, 2011), the TCEQ and the Performing Party will be engaged in several photochemical modeling activities designed to advance the Texas State Implementation Plan (SIP). The goal of these Phase II activities is to prepare both a working June 2006 base case ozone episode and a 2008 baseline scenario of this base case.

Some of the steps involved in reaching this goal may include, but are not limited to:

Primarily Responsibility of the TCEQ:

1. Completing performance evaluations of the Weather Research and Forecasting (WRF) meteorological modeling;
2. Producing meteorological modeling optimized for inland and coastal areas;
3. Developing and/or modifying 2006 meteorological and emissions inputs for an alternative modeling domain;

Primary Responsibility of the Performing Party with Oversight of the TCEQ:

4. Developing a photochemical modeling protocol appropriate for submittal as part of a Texas SIP revision based on a revised eight-hour ozone standard;
5. Improving and upgrading modeling emissions inventories for the 2008 baseline scenario of this ozone episode;

6. Investigating model performance of the 2006 base case ozone episode;

Primary Responsibility of the Performing Party:

7. Investigating possible ozone sources transported into a particular nonattainment area along with the formation of ozone within the area based on precursor emissions;
8. Investigating model sensitivity to broad changes in precursor emissions using tools such as Anthropogenic Precursor Culpability Assessment (APCA), Ozone Source Apportionment Technology (OSAT), or High-order Decoupled Direct Method (HDDM); and
9. Evaluation of potential local voluntary or mandatory control strategies.

During Phase II, the TCEQ will continually work to develop the overall photochemical modeling episode and periodically deliver updates to the Performing Party via internet, FTP site, or disk drive (for large files) provided by the Performing Party. Steps 1-3 will be the primary responsibility of the TCEQ while steps 7-9 will be the primary responsibility of the Performing Party. Steps 4, 5, and 6 will be primarily a Performing Party responsibility with significant oversight by staff at the TCEQ.

The Performing Party is encouraged to perform appropriate modeling sensitivities which may include APCA runs, OSAT runs, HDDM runs, or source category sensitivities which may provide the Rider 8 areas and the TCEQ with preliminary information regarding the more efficient control strategies to pursue. The use of "zero out" runs whereby anthropogenic precursor emissions are eliminated over large geographic areas is discouraged.

There are several guidelines that the Performing Party shall adhere to.

First, in applying the photochemical model, the Performing Party may not analyze or model control strategies unless they meet the following criteria:

1. The geographic applicability is limited to the Performing Party's program area; and
2. The control strategy is either voluntary or can be implemented under a political subdivision's existing legal authority.

Second, because the TCEQ's staff resources are limited, the Performing Party should expect that technical assistance will be limited to answering specific questions from experienced users of EPS3, CAMx, WRF, LINUX operations systems, and LINUX systems management. Staff from the TCEQ will not be available to provide comprehensive assistance to inexperienced users of EPS3, CAMx, WRF, and LINUX. Third, distribution of multiple and/or large size modeling files to the Performing Party shall require a hard drive shipped and provided at the Performing Party's expense and formatted for LINUX operating systems. Fourth, the TCEQ will not reimburse the

Performing Party for any use of photochemical modeling episodes developed for periods prior to 2005.

Deliverable: The Performing Party shall document its photochemical modeling activities as part of its regular monthly progress report. The Performing Party shall include any important analyses and results from its inventory development and photochemical modeling work. The Performing Party shall provide the report in Microsoft Office Word and Adobe Acrobat Reader (*.pdf) formats. Any supporting data or information shall be provided upon request in like format or in a format agreed to by the TCEQ and the Performing Party. For emission inventory and/or modeling file improvements, the Performing Party shall provide all "upstream" inputs in an appropriate electronic format so that suggested changes can be readily replicated and incorporated by the TCEQ staff.

Task 7: Local Control Strategies

The Performing Party shall develop and analyze local control strategies according to guidance developed by the TCEQ Air Quality Planning Section. The control strategy analyses shall contain sufficient information for TCEQ modeling staff to modify emissions inventory input files and Air Quality Planning may properly document the strategies in any SIP revision. The local control strategies must meet the four criteria for SIP credit (quantifiable, enforceable, surplus, and permanent).

Deliverable: The Performing Party shall prepare a Local Control Strategy Analysis Document describing the control strategies recommended for inclusion into applicable SIP revisions and providing sufficient documentation for TCEQ staff to utilize in a SIP revision.

Task 8: Administrative Activities

The Performing Party shall summarize its activities in a monthly progress report described below.

Deliverable: The progress report shall document, in sufficient technical detail and by task, the accomplishments, expenditures, and milestones achieved during the prior thirty (30) days in monthly progress reports. Specifically, the monthly progress report shall:

1. Summarize all activities performed by the Performing Party with respect to each task and subtask of this work plan for the previous month;
2. Establish performance goals for each task and subtask for the month in which the report is delivered;
3. Compare accomplishments on every task and subtask to performance goals established the previous month;

4. Summarize reasons why performance goals were not met; and
5. Provide a preliminary estimate of costs by task and subtask for the reporting period.

Deliverable Date: The Performing Party shall submit, via electronic mail, a monthly progress report of its activities no later than the 10th day of each month or the next business day if the 10th of the month falls on a weekend or holiday.

ATTACHMENT B

UNIVERSITY OF TEXAS AT EL PASO

BUDGET SUMMARY

PRINCIPAL INVESTIGATOR: Wen-Whai Li
CO-PRINCIPAL INVESTIGATOR: Rosa Fitzgerald, Ruey L Cheu, Huiyan Yang
PERIOD: From 6/1/2011 to 5/31/2013
TITLE: El Paso MPO Rlder 8 Ozone Reduction Program at El Paso, Texas
AGENCY: EL PASO METROPOLITAN PLANNING ORGANIZATION

	Year 1	Year 2	Total
A SALARIES AND WAGES - SENIOR PERSONNEL			
1 Rosa Fitzgerald (Yr1)2.0summos@100.0% (Yr2)1.7summos@100.0%	15,029	13,158	28,187
2 Ruey L Cheu (Yrs1-2)0.5summos@100.0%	4,900	5,047	9,947
3 Wen-Whai Li (Yr1)3.0mos@40.0% (Yr1)1.0summos@100.0% (Yr2)1.5summos@100.0%	25,851	17,862	43,713
4 Huiyan Yang (Yr1)9.0mos@25.0% (Yrs1-2)3.0summos@25.0%	13,933	3,509	17,442
5 Hector A Olvera (Yr1)6.0mos@40.0% (Yr1)2.0summos@40.0%	13,672	-	13,672
6 Hongling Yang (Yr1)2.0mos@50.0% (Yr1)3.0summos@50.0%	12,489	-	12,489
SUBTOTAL	85,874	39,576	125,450
B OTHER PERSONNEL			
1 Post Doctoral	-	-	-
2 Other Professional	-	-	-
3 Graduate Students (Yr1)2-12.0mos@50.0% (Yr2)2.0mos@50.0%	39,319	3,301	42,620
4 Undergraduate Students (Yr1)5-41.0wks@19.0hrs (Yr2)11.0wks@19.0hrs	31,821	1,774	33,595
5 Secretarial/Clerical (Yr1)12.0mos@15.0% (Yr2)3.0mos@15.0%	4,018	1,012	5,030
6 Other Personnel	-	-	-
TOTAL - SALARIES AND WAGES	161,032	45,663	206,695
C FRINGE BENEFITS			
1 FACULTY AND STAFF	25,734	10,375	36,109
2 STUDENTS	8,115	670	8,785
TOTAL FRINGE BENEFITS	33,849	11,045	44,894
D TOTAL - SALARIES AND WAGES/FRINGE BENEFITS	194,881	56,708	251,589
E EQUIPMENT			
1 Work Station (2)	10,000	-	10,000
2 Auto GC	30,000	-	30,000
TOTAL - EQUIPMENT	40,000	-	40,000
F TRAVEL			
1 DOMESTIC	5,598	6,014	11,612
2 FOREIGN	-	-	-
TOTAL - TRAVEL	5,598	6,014	11,612
G PARTICIPANT SUPPORT COSTS			
1 STIPENDS	-	-	-
2 TRAVEL	-	-	-
3 SUBSISTENCE	-	-	-
4 TUITION AND FEES	-	-	-
TOTAL - PARTICIPANT COST	-	-	-
H OTHER DIRECT COSTS			
1 MATERIALS AND SUPPLIES	11,000	10,008	21,008
2 PUBLICATION COSTS	1,000	1,000	2,000
3 CONSULTANTS	29,000	5,000	34,000
<i>CAMx Modeling</i>	5,000	5,000	10,000
<i>Meteorological Modeling</i>	5,000	-	5,000
<i>Emission Inventory Survey</i>	19,000	-	19,000
4 COMPUTER SERVICES	2,700	-	2,700
5 SUBCONTRACTS	-	-	-
6 OTHER COSTS	5,000	3,000	8,000
<i>Calibration gases</i>	5,000	3,000	8,000
TOTAL - OTHER DIRECT COSTS	48,700	19,008	67,708
I TOTAL DIRECT COSTS	289,179	81,730	370,909
J INDIRECT COSTS 10.0% Modified total direct cost	24,918	8,173	33,091
K TOTAL ESTIMATED COSTS	314,097	89,903	404,000

All personnel transactions required to fulfill the provisions of this proposal will be made in accord with, and will be governed by, the appropriate University Personnel Policies and Regulations. All salary increases will conform to University policies, subject to the availability of funds. No officer, member, or employee of the University and no other public officials for the governing body of the locality or localities in which the project is situated or being carried out who exercise any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this project which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this project or the proceeds thereof.