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

DEPARTMENT: Engineering Department

AGENDA DATE: September 4, 2007

CONTACT PERSON/PHONE: Javier Reyes, 541-4630

DISTRICT(S) AFFECTED: N/A

SUBJECT:

That the City Manager is hereby authorized to sign a Professional Services Agreement by and between the **City of El Paso** and **Mijares-Mora Architects, Inc.**, a Texas Corporation, for Architectural Consulting Services in an amount not to exceed Seven Hundred Fifty Thousand and 00/100 Dollars ($750,000.00).

BACKGROUND / DISCUSSION:

This Professional Services Agreement between the City and Mijares-Mora Architects, Inc. shall provide architectural consulting services to the City. The agreement reflects mutually agreed hourly salary rates for architectural staff personnel that will be providing the services. The agreement has a contract value not to exceed $750,000 within a period of one (1) year. At this moment there are no particular projects assigned to this agreement. When a project with scope is authorized by the City, the Consultant shall provide a fee proposal showing the amount of hours needed by each Consultant's staff member to complete the project. If needed the City staff will negotiate proposed hours presented by the Consultant until agreement is reached. The Professional Services Agreement hourly rates will then be applied to the agreed hours summing up the total consultant's fee. City staff will then open a purchase order and authorize the Consultant to proceed with the work. Both City staff and Consultant cannot open purchase orders and/or authorize work that exceed the total cumulative contract value of $750,000 without Council approving an amendment. If necessary, City Council has the option to renew the contract for two additional years through an amendment. The Consultant shall provide architectural services that consists of but are not limited to facility master planning, programming, needs assessments, building and park designs. These services in general are used for the capital improvement construction projects. The services require the oversight, direction, and professional seal of a Registered Architect. In house City staff cannot provide this degree of architectural services because the City does not employ a Registered Architect. There is a high demand for Registered Architects in El Paso.

PRIOR COUNCIL ACTION:

Previously City Council has not considered this particular agreement.

AMOUNT AND SOURCE OF FUNDING:

No particular project or projects have been assigned to this agreement at this time. This item will be funded on a per project basis where services are necessary at an accumulative amount not to exceed $750,000.00 for a one year period. This item does not require a budget transfer.

BOARD / COMMISSION ACTION:

N/A

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

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

DEPARTMENT HEAD: for _____

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

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

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RESOLUTION

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

That the City Manager is hereby authorized to sign a Professional Services Agreement by and between the **City of El Paso** and **Mijares-Mora Architects, Inc.**, a Texas Corporation, for Architectural Consulting Services in an amount not to exceed Seven Hundred Fifty Thousand and 00/100 Dollars ($750,000.00).

ADOPTED this _____ day of _____, 2007.

CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Bertha A. Ontiveros
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
for R. Alan Shubert, P.E., C.B.O.
City Engineer

#32315 v1 - ENG/1/RESO ARCHITECTURAL CONSULTING SERV. MIJARES-MORA ARCHITECTS, INC.
Document Author: BONT

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THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

AN AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made this _____ **day of** _____, **2007** 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 **MIJARES-MORA ARCHITECTS, 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 **"ARCHITECTURAL CONSULTING SERVICES-2007"** 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
Attachment "E"	Insurance Certificates

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 "C"**.

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 **SEVEN HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS ($750,000.00)** 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"**. The Owner shall request from Consultant the basic services for project(s) on an as needed basis. If authorized by prior written amendment to this Agreement, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"**. 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.

07 AUG 30 AM 8:19
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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 PROJECTS' CONSTRUCTION BUDGET. The Consultant acknowledges that each project assigned to the Consultant shall have a specified construction budget for the award of a construction contract base bid, which is to include all features essential to the operation of the Projects for its intended use as described in the Scope of Services and Project budget in **Attachment "A"**. The Consultant does hereby agree to design the Projects such that the Consultant's final agreed cost opinions for the construction of the Project, including all features essential to its intended use, is within the above budgeted amount for the base bid. If the Consultant's cost opinions exceed the Project Budget at any time, the Consultant shall make recommendations to the Owner to adjust the Project's size or quality and the Owner shall cooperate with the Consultant to adjust the scope of the Project. If deemed necessary to fulfill the basic scope of the project, the Owner shall have the option to increase the construction budget without the Consultant requesting additional compensation to fulfill the basic scope. If all responsible bids exceed the City approved Consultant's final cost opinions by more than **ten percent (10%)**, the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

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

ARTICLE IV.
PERIOD OF SERVICE AND TERMINATION

4.1 PERIOD OF SERVICE. The services called for by each phase shall begin upon the issuance of a Notice to Proceed from the City Engineer. The Consultant shall complete the requested services in accordance with the timelines and schedules outlined in **Attachments "C" and "D"**. The term of this Agreement shall be for a period not to exceed **one (1) year or three**

07 AUG 30 AM 8:19
CITY CLERK DEPT.

hundred and sixty-five (365) consecutive calendar days with the option to extend for two (2) additional one (1) year terms, except as specifically noted herein.

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 Owner from the Consultant 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 Owner from the Consultant is determined.

07 AUG 30 AM 8:19
CITY CLERK DEPT.

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 not commence work under this Agreement until the Consultant has obtained sufficient insurance as required herein, 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

07 AUG 30 AM 8:19
CITY CLERK DEPT.

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

> "The insurance covered by this certificate will not be canceled or materially altered, except after **thirty (30) consecutive calendar days** written notice of intent to cancel or materially alter 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.

07 AUG 30 AM 8:19
CITY CLERK DEPT.

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.

07 AUG 30 AM 8:19
CITY CLERK DEPT.

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.

6.2 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

07 AUG 30 AM 8:19
CITY CLERK DEPT.

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.

07 AUG 30 AM 8:19
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7.5 AUDITING RECORDS FOR THE SPECIFIC PROJECT. Consultant's records subject to audit shall include but not be limited to records which, in the Owner's discretion, have a bearing on matters of interest to the Owner in connection with the Consultant's work on this Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

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

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times and places.

7.6 SUCCESSORS AND ASSIGNS. This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

7.7 VENUE. For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

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

7.9 CAPTIONS. The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.

7.10 SEVERABILITY. Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

7.11 NOTICES. Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

07 AUG 30 AM 8:19
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To the Owner:	The City of El Paso Attn: City Manager 2 Civic Center Plaza El Paso, Texas 79901
With a Copy to:	The City of El Paso Attn: City Engineer 2 Civic Center Plaza El Paso, Texas 79901
To the Consultant:	H.L. Bert Mijares, Jr., A.I.A. Mijares-Mora Architects, Inc. 111 North Festival Drive El Paso, Texas 79912

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

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

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

WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

CITY OF EL PASO:

_____

Joyce Wilson, City Manager

CONSULTANT:

MIJARES-MORA ARCHITECTS, INC.

_____

By: H.L. Bert Mijares, Jr., A.I.A.
Title: President

07 AUG 30 AM 8:19
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APPROVED AS TO FORM:

Bertha A. Ontiveros
Assistant City Attorney

APPROVED AS TO CONTENT:

for R. Alan Shubert, P.E.
City Engineer

07 AUG 30 AM 8:19
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ACKNOWLEDGEMENTS

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on this _____ day of _____, 2007, by **Joyce A. Wilson**, as **City Manager** of the **City of El Paso, Texas**.

_____
Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF El PASO §

This instrument was acknowledged before me on this 22nd day of August, 2007, by **H.L. Bert Mijares, Jr., A.I.A.,** as **President** of **Mijares-Mora Architects, Inc.**.

Maria E Loweree
Notary Public, State of Texas

MARIA E. LOWEREE
NOTARY PUBLIC
In and for the State of Texas
My commission expires
March 6, 2008

07 AUG 30 AM 8:19
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ATTACHMENT " A "

PROJECT SCOPE

TITLE: **Architectural Consulting Services - 2007**

LOCATION: **Citywide**

CONSULTING SERVICES AGREEMENT VALUE: **$750,000/per year**

GENERAL DESCRIPTION: This contract will be used for miscellaneous assignments not covered within the scope of a defined project. See attached Scope of Services for details of the type of services covered.

SERVICES REQUIRED:

[X] Investigation
[X] Soils Investigation
[X] Bidding & Construction
[X] Planning
[X] Design

PRODUCTS REQUIRED:

[X] Study / Report
[X] Plans, Specifications, Estimates

GENERAL REQUIREMENTS AND CRITERIA:

1. Design must meet all applicable City Codes and Ordinances.
2. Design must comply with Engineering Department Guidelines.
3. Design must comply with all local, state and federal laws and regulations, including but not limited to the Americans with Disabilities Act.
4. Consultant shall coordinate with City of El Paso Information Technology Department.
5. Consultant shall provide design for voice and data lines when applicable.

OTHER CONSIDERATIONS:

1. Work to be coordinated with the Engineering Department.
2. This contract will be for a period of one year. The City of El Paso has the option to renew the architectural consulting services for two additional years.

07 AUG 30 AM 8:19
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PROJECT SCHEDULE:

Project Schedules to be developed for each assignment as needed by the City of El Paso Engineering.

07 AUG 30 AM 8:19
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Scope of Services

General Description:

1. Studies and Reports – Architect shall perform research and database creation to conduct studies and produce reports to include investigations, drawings, sketches and cost estimates. Reports shall include description of alternatives considered, estimates of construction costs, conclusions and recommendations. This task includes the preparation of feasibility studies, structural analysis, design analysis and other studies as required.
2. Preparation of scopes, plans, specifications and cost estimates for design of buildings, structures and similar construction.
3. Constructability, Biddability, Operability Reviews and Value Engineering. The Architect shall provide constructability, biddability and operability reviews on proposed construction projects. The review will cover such items as detail and cut omissions and inconsistencies between plans and specifications, vague or ambiguous notes and references and lack of coordination between the drawings of all disciplines involved in the project.
4. Full time Project Representative. The Architect shall designate and assign a project representative, subject to the approval of the Owner, who will serve as the point of contact during the on-site observation and inspection of the construction work in progress and to ascertain that the work is properly executed in conformance with the drawings and specifications.
5. Review of Shop Drawings, Materials, Fixtures and Equipment. The Architect shall review shop drawings and materials submittals and make recommendations for approval or disapproval. Final approval shall be by the Owner.
6. Meetings and Conferences. Periodic meetings shall be held whenever requested by the Owner for discussion of questions and problems relating to the work being performed by the Architect. The Architect shall be required to attend and participate in all design conferences pertinent to the work being performed.
7. The Architect shall appoint a project coordinator or manager to serve as a single point of contact and liaison between the Architect and the Owner for all work required under this agreement. The project coordinator or manager will be responsible for the complete coordination of all work developed under each assignment. All work will be accomplished with adequate internal controls and review procedures to eliminate conflicts, errors, and omissions, and to insure the technical accuracy of all design information.
8. The City of El Paso Engineering Department shall provide detailed and specific scopes for each individual project.
9. Other **architectural functions as required by the Owner.**

07 AUG 30 AM 8:19
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ATTACHMENT " B "

mijares • mora
ARCHITECTS INC.

July 18, 2007

Ms. Irene Ramirez, P.E., Assistant City Engineer
Engineering Department
City of El Paso
Two Civic Center Plaza - 4th Floor
El Paso, Texas 79901-1196

Reference: **Architectural Consulting Services for**
The City of El Paso - 2007

Dear Ms. Ramirez:

We sincerely appreciate this opportunity to offer the services of our firm as Architects for the above referenced project.

Per your request, the following are the revised hourly rates you requested for your review and consideration.

ARCHITECTURAL: *Mijares – Mora Architects, Inc.* – Hourly Rates

Personnel Title/Position	Hourly Rate
Principal	$160.00
Sr. Project Architect	$135.00
Architect	$110.00
Project Designer/PM	$100.00
Intern/Project Designer I	$64.00
Intern/Project Designer II	$50.00
CADD Technician	$40.00
Clerical	$24.00
Specification Writer	$64.00

07 AUG 30 AM 8:19
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111 North Festival Drive
El Paso, TX 79912
(tel) 915.542.1591
(fax) 915.542.1594

ADDITIONAL INFORMATION

1. Mijares – Mora Architects, Inc. is a Texas Corporation.
2. H. L. Bert Mijares, Jr., President will be signing the agreement.
3. Attached, please find our Certificates of Insurance.

Should you have any questions or comments or should you require any additional information, please let us know.

Respectfully submitted,

H. L. Bert Mijares, Jr., AIA
Mijares – Mora Architects, Inc.

07 AUG 30 AM 8:19
CITY CLERK DEPT.

ATTACHMENT "C"
AGREEMENT FOR CONSULTING SERVICES

For the Project known as **"ARCHITECTURAL CONSULTING SERVICES-2007"** 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

07 AUG 30 AM 8:19
CITY CLERK DEPT.

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.

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.

PHASE I - PRELIMINARY DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the **Preliminary Design Phase**, the Consultant shall do the following separately for each construction contract:

1. Consult with the Owner to determine the Owner's requirements for the Project.

2. Provide at the Consultant's sole expense right-of-way surveys, boundary surveys, topographic surveys, drainage surveys, and soil investigations as needed to design the Project and as required by the Scope of Work of the Agreement; obtain all available information from all utility companies and other affected agencies including, but not limited to, the Texas Department of Transportation and the U.S. Department of Interior, Bureau of Reclamation, as needed to complete the proper design. This does not, however, include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

3. Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.

07 AUG 30 AM 8:19
CITY CLERK DEPT.

4. Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.

5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

6. Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.

7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.

8. Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.

9. As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

PHASE II - PRE-FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Pre-Final Design Phase, the Consultant shall do the following separately for each construction contract:

1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities. The Consultant shall be fully responsible for coordination with all utility companies to resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may

07 AUG 30 AM 8:19
CITY CLERK DEPT.

not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.

2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the **"Drawings,"** to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called **"Specifications."** These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.

3. Advise the Owner of any adjustment to the Consultant's previous opinion of probable construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant's cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor's method of pricing and that the Consultant's opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.

4. Prepare proposal forms.

5. As per Attachment "D", furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.

PHASE III - FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Final Design Phase, the Consultant shall do the following separately for each construction contract:

07 AUG 30 AM 8:19
CITY CLERK DEPT.

1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.

2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility company comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.

3. As per Attachment "D", furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.

4. As per Attachment "D", furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.

5. Additional copies of the drawings and specifications beyond those identified in Attachment "D", required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

PHASE IV - BIDDING PHASE

Upon receipt of the Owner's written authorization to proceed with the Bidding Phase on each construction contract, the Consultant shall do the following separately for each construction contract:

1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.

2. Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.

3. Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.

4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.

5. As identified in Attachment "A", assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and

07 MAR 30 AM 8:19
CITY CLERK DEPT.

performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.

6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

PHASE V - CONSTRUCTION PHASE

The Construction Phase, for each construction contract, shall commence with the award of the construction contract and shall terminate upon written approval of final payment by the Owner, except that this phase may be extended, if required, by agreement between the Consultant and the Owner. During the Construction Phase the Consultant shall:

1. Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.

2. Advise and consult with the Owner and act as the Owner's representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner's standard general conditions for construction projects, with such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.

3. Unless otherwise stipulated in Attachment "A", Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.

4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant's efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

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Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. **Such review must be complete within ten City working days following receipt of submittal documents.** The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.

6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract documents, subject to the Owner's interpretation of such terms and conditions. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.

7. Based on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.

8. Conduct with the Owner and construction contractor no more **than two brief preliminary inspections**, at times requested by the construction contractor to determine if the Project is ready for final inspection.

07 AUG 30 AM 8:20
CITY CLERK DEPT.

9. Schedule and conduct with the Owner, including representative of the City Engineer and the using department and the construction contractor, a final inspection of the Project and prepare and publish a "punch list" of minor deficiencies to be corrected prior to final payment to the construction contractor. The **"punch list"** shall be furnished to the construction contractor and the Owner within **two City working days** after the final inspection.

10. Issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.

11. Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.

12. Furnish the Owner one set of reproducible **(D format)** "record" drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format

13. Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.

14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner's request, have recommendations implemented by the construction contractor.

ADDITIONAL SERVICES OF THE CONSULTANT

GENERAL

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.

07 MAR 30 AM 8:30
CITY CLERK DEPT.

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.

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.

07 AUG 30 AM 8:20
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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.

07 AUG 30 AM 8:20
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ATTACHMENT "D"
PAYMENT AND DELIVERABLE SCHEDULES

For the Project known as **"ARCHITECTURAL CONSULTING SERVICES-2007"**, hereinafter referred to as the Project, the Owner will compensate the Consultant an amount not to exceed **SEVEN HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS ($750,000.00)** 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 project shall be made in proportion to the services performed for that project's phase.

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

The Owner shall specify the time schedule and deliverables for each project. The Owner and Consultant shall agree upon the fee for deliverables.

07 AUG 30 AM 8:20
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ATTACHMENT " E "

Client#: 169973 MIJARMOR

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/07/07

PRODUCER
USI Southwest
7600-B N. Capital of Texas Hwy
Suite 200
Austin, TX 78731-1184

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
Mijares Mora Architects Inc.
111 N. Festival
El Paso, TX 79912

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Zurich American Insurance Company	16535
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC				EACH OCCURRENCE	$
						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
						MED EXP (Any one person)	$
						PERSONAL & ADV INJURY	$
						GENERAL AGGREGATE	$
						PRODUCTS - COMP/OP AGG	$
		AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	$
						BODILY INJURY (Per person)	$
						BODILY INJURY (Per accident)	$
						PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT	$
						OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
		EXCESS/UMBRELLA LIABILITY ☐ OCCUR ☐ CLAIMS MADE ☐ DEDUCTIBLE ☐ RETENTION $				EACH OCCURRENCE	$
						AGGREGATE	$
							$
							$
							$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS / OTH-ER	
						E.L. EACH ACCIDENT	$
						E.L. DISEASE - EA EMPLOYEE	$
						E.L. DISEASE - POLICY LIMIT	$
A		OTHER Professional Liability	EOC930780004	12/15/06	12/15/07	$1,000,000 per claim $1,000,000 anni aggr.	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

*Except in the event of non payment of premium.

Re: Architectural Consulting Services - 2007

(See Attached Descriptions)

CERTIFICATE HOLDER

City of El Paso
Two Civic Center Plaza
El Paso, TX 79901

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
James E. Zimmerman

ACORD 25 (2001/08) 1 of 3 #S1385387/M772102 OPOHB
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07 AUG 30 AM 8:20
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DESCRIPTIONS (Continued from Page 1)

Prof Liab: The aggregate limit is the total insurance available for claims presented within the policy period for all operations of Insured. The limit will be reduced by payment of indemnity and expense.

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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

CITY CLERK DEPT.
07 AUG 30 AM 8:20

Client#: 3025 MIJARMORAA

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/14/07

PRODUCER
JDW Insurance
P.O. Box 981021
El Paso, TX 79998-1021
915 496-8500

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
Mijares Mora Architects, Inc.
111 N. Festival
El Paso, TX 79912

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Hartford Lloyds Insurance Co	
INSURER B: Hartford Underwriters Insurance Co	
INSURER C: Hartford Casualty Insurance Co	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY	65SBAGJ3197	09/22/06	09/22/07	EACH OCCURRENCE	$1,000,000
		[X] COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
		[ ] CLAIMS MADE [X] OCCUR				MED EXP (Any one person)	$10,000
						PERSONAL & ADV INJURY	$1,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	$2,000,000
		[ ] POLICY [ ] PRO-JECT [ ] LOC				PRODUCTS - COMP/OP AGG	$2,000,000
C		AUTOMOBILE LIABILITY	65UECUW1021	09/22/06	09/22/07	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
		[X] ANY AUTO					
		[ ] ALL OWNED AUTOS				BODILY INJURY (Per person)	$
		[ ] SCHEDULED AUTOS					
		[X] HIRED AUTOS				BODILY INJURY (Per accident)	$
		[X] NON-OWNED AUTOS					
						PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
		[ ] ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
A		EXCESS/UMBRELLA LIABILITY	65SBAGJ3197	09/22/06	09/22/07	EACH OCCURRENCE	$1,000,000
		[ ] OCCUR [ ] CLAIMS MADE				AGGREGATE	$1,000,000
							$
		[ ] DEDUCTIBLE					$
		[X] RETENTION $ 10000					$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	65WECEX7014	09/01/06	09/01/07	[ ] WC STATU-TORY LIMITS [ ] OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	$500,000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	$500,000
						E.L. DISEASE - POLICY LIMIT	$500,000
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

City of El Paso is named as additonal insured in regards to General Liability and Auto policies. Waiver of subrogation in favor of City of El Paso applies to Workers Compensation. The Insurance covered by this certificate will not be cancelled or materially altered, except after 30 consecutive caldenday days written (See Attached Descriptions)

CERTIFICATE HOLDER

City of El Paso
#2 Civic Center Plaza
El Paso, TX 79901

07 AUG 30 AM 8:20
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CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE
Donald R. Mayo

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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

CITY CLERK DEPT.
07 AUG 30 AM 8:20

DESCRIPTIONS (Continued from Page 1)

notice of intent to cancel or materially alter said insurance has been provided to the City of El Paso.

CITY CLERK DEPT.
07 AUG 30 AM 8:20

Procurement Summary

Project Name: **Architectural Consulting Services 2007**

District: **Citywide**

Scope of work

The consultant shall provide architectural consulting services. The services shall consist of studies, reports, preparation of scopes, construction drawings, specifications and cost estimates for the design of buildings, structures and other facilities. Other services include constructability, operability reviews, and value engineering.

Department Requesting Service: Engineering Department

Procurement Type: Architect/Engineer Selection Process (Qualification based)

Request for Qualification Notification Date: March 9, 2007

Firms that were notified: All pre-qualified architect/engineer firms

Request for Qualification Due Date: March 23, 2007

Architect/Engineer firms that submitted RFQ packages:

PSRBB Architects	ARTchitecture
MNK Architects	Perspectiva
Mijares-Mora Architects	Carl Daniels Architects
Fokus on Architecture	CEA Group

Architect Engineer Selection Committee Members (Shortlist committee)

Deborah G. Hamlyn, Deputy City Manager
Irene Ramirez, Assistant City Engineer, Engineering Department
Javier Reyes, Engineering Division Manager, Engineering Department
Sam Rodriguez, Engineering Division Manager, Engineering Department
Monica Castrejon, Architect Intern, Engineering Department

Date shortlist ranking was submitted: April 13, 2007

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07 AUG 30 AM 8:18

Shortlist Ranking of Firms

Firm	Rank	Outcome
Perspectiva	1	Finalist
Mijares-Mora	2	Finalist
ARTchitectural	3*	Finalist
MNK	3*	Finalist
CEA Group	5	Not selected
CDA	6	Not selected
PSRBB	7	Not selected
Fokus	8	Not selected

* There was a two way tie for third place. Four firms were selected as finalists.

Date firms were notified of results: May 1, 2007

Architect Engineer Selection Oral Presentation Date: May 16, 2007

Architect Engineer Selection Committee Members (Oral presentation committee)

Deborah G. Hamlyn, Deputy City Manager
Irene Ramirez, Assistant City Engineer, Engineering Department
Javier Reyes, Engineering Division Manager, Engineering Department
Sam Rodriguez, Engineering Division Manager, Engineering Department
Monica Castrejon, Architect Intern, Engineering Department

Final Ranking of Firms

Firm	Rank	Outcome
Mijares Mora	**1**	Selected
ARTchitecture	**2**	Not selected
MNK	**3**	Not selected
Perspectiva	**4**	Not selected

Date firms were notified in writing of final selection: May 30th, 2007 Selected firm
June 4th, 2007 Not selected

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07 AUG 30 AM 8:19

SELECTION OF PROFESSIONAL SERVICES

PROJECT NAME: Architectural Consulting Services 2007

RATER: _____ **DATE:** _____

Firms: A=
B=
C=
D=

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07 AUG 30 AM 8:19

See narrative for directions for 1a, 1b, 1c and 2i.

1. PERFORMANCE REVIEW OF THE PRIME (On previous projects)		A	B	C	D
a. Are their designs typically completed on schedule?	5				
b. Are their estimates usually reasonably close to actual bids.	10				
c. Were their projects completed as designed with no change orders required due to errors & omissions?	10				

2. PRESENTATION BY THE PRIME		A	B	C	D
a. Did the firm adequately explain their strategy to accomplish the scope of work?	10				
b. Did the firm list at least one major issue that could affect the design of projects ?	10				
c. Did the firm explain why the project manager is the best candidate and how they will address these issues?	10				
d. Did the firm clearly explain their design approach?	9				
e. Did the firm adequately prove the constructability of the their approach to the design of projects?	5				
f. Did the firm completely detail how their competency and experience are pertienent?	20				
g. Did the firm prove they have the ability to be immediately responsive to issues during design and construction?	6				
h. Did the firm respond to the questions of the committee (where applicable)?	2				
i. DBE: Prime = 2 Subs = 1 Both = 3 Veteran = 1* * See attached narrative	3				

TOTAL SCORE	100				

SCORING NARRATIVE

Engineering staff will develop a score for all items in Section 1 and 2.i.. A consensus score will be used by all.

1.a. If taken as a whole, the consultant has completed their previous assignments on time, they should be given a score of 4 or 5. If they have occasionally been late, they should receive a 2 or 3. If consistently late, they should receive a 0 to 1. The variables are how late and how often.

1.b. If taken as a whole, the consultant's estimates on their previous assignments were within five percent of the low bid, they should be given a score of 7 to 10. If they have been occasionally been over five percent, they should receive a score of 3 to 6. If they are consistently significantly off target, they should receive a 0 to 2. The variables are how far off and how often.

1.c. If taken as a whole, the consultant's projects have not required any, or very few change orders **because** of their own design flaws (documented errors & omissions) on their previous assignments, they should be given a score of 7 to 10. If they have had few and/or small required change orders **because** of their own design flaws (documented errors & omissions), they should receive a score of 3 to 6. If they have consistently require change orders, or especially large change orders **because** of their own design flaws (documented errors & omissions), they should receive a 0 to 2. The variables are how many and how expensive.

2.a. If the consultant has clearly explained, in understandable terms, their strategy to accomplish the scope of work, and you consider it highly feasible, they should be given a score of 7 to 10. If they have not clearly explained their strategy, or if you feel it is not completely realistic, they should receive a score of 3 to 6. If they have given no understandable strategy or you feel it is completely unrealistic, they should receive a 0 to 2. The variables are how thorough, and how realistic.

2.b. The object here is not to simply list one issue; it is to list one significant issue that is insightful and unique to the project. If the consultant has clearly explained, in understandable terms, their one most critical issue and you consider it highly pertinent, critical, and unique, they should be given a score of 7 to 10. If they have not presented an issue that is truly unique or critical, but has some merit, they should receive a score of 3 to 6. If they have given no real insight and have presented one issue that is common and mundane, they should receive a 0 to 2. The variables are how pertinent and how unique.

2.c. The object here is not to brag on how impressive the project manager is in general. Instead, if they have clearly explained in understandable terms how the project manager can bring special skills to this specific project and how he/she will specifically address the three significant issues presented in 2.b., they should be given a score of 7 to 10. If they have not presented pertinent experience in detail (or it is not completely pertinent), or they have only partially explained how it is relevant to addressing the three issues, they should receive a score of 3 to 6. If they have given no real pertinent experience or not addressed the issues, they should receive a 0 to 2. The variables are how pertinent the project manager's experience is and how it will be used.

07 AUG 30 AM 8:19
CITY CLERK DEPT.

2.d. If the firm has clearly explained, in very understandable terms, the approach they will use to design the project, and you feel it is in fact a viable and creative approach, then they should be given a score of 6 to 9. If they have not presented the approach well, or you feel it is questionably realistic, they should receive a score of 3 to 5. If they have given no real plan, or the plan they have given cannot reasonably be executed, they should receive a 0 to 2. The variables are how competent their approach is and can it be implemented.

2.e. If the firm has clearly explained, in very understandable terms, the constructability of their design, and you feel it is in fact a viable and creative approach, then they should be given a score of 4 to 5. If they have not adequately proven the feasibility, they should receive a score of 2 to 3. If they have given no real proof, or the construction would be difficult at best, they should receive a 0 to 1. The variables are how competent is their design and can it be easily constructed.

2.f Items 2.a., 2.d., and 2.e. above cover specific parts of the overall picture. In considering those items, and then taking into account your overall impression (sort of filling in the remaining gaps not covered by other specific questions), if you feel that they have clearly shown that they have the necessary, pertinent, and well developed skills and knowledge to provide an excellent product, then they should be given a score of 15 to 20. If they have not adequately proven themselves, they should receive a score of 7 to 14. If they have shown no real pertinent abilities or skills, they should receive a 0 to 6. The variables are how experienced they are and how competent they are in **regard to this project**.

2.g. If the firm can be available to discuss the project **on site**, within thirty minutes, then they should be given a score of 6. If they can be available on site within four hours, they should be given a 4. If they cannot consistently be on site within eight hours, they should be given a 1. The variable is how quickly they can make themselves available.

2.h This score is open ended depending on how well you perceive that they have answered the questions succinctly, honestly, and accurately.

2.i. If the prime and any subconsultants are certified by a governmental agency as HUBs or DBEs (or some other appropriate minority and/or disadvantaged group), then you should give them a score of 3. If the prime meets the criteria and no subconsultants do, you should give them a score of 2. If the prime does not meet the criteria, but any subconsultants do, your should give them a score of 1. If the prime does not meet the criteria and none of the subconsultants do either, you should give them a score of 0. If the Prime's owner is an American Veteran, and no other points were awarded in this category, give a score of 1.

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07 AUG 30 AM 8:19