

**AMENDMENT NUMBER ONE**  
**TO AN AGREEMENT**  
**BY AND BETWEEN THE CITY OF FRISCO, TEXAS (CITY)**  
**AND**  
**LEE ENGINEERING, LLC (CONSULTANT)**  
**FOR**  
**PROFESSIONAL ENGINEERING SERVICES**

Made as of the \_\_\_\_ day of \_\_\_\_\_ in the year Two Thousand Eleven.

**BETWEEN** the City:       **The City of Frisco, Texas**  
                                  6101 Frisco Square Boulevard  
                                  Frisco, Texas 75034  
                                  Telephone: (972) 292-5400  
                                  Facsimile: (972) 292-5016

and the Consultant:       **Lee Engineering, LLC**  
                                  3030 LBJ Freeway, Suite 1660  
                                  Dallas, Texas 75234  
                                  Telephone: (972) 248-3006  
                                  Facsimile: (972) 248-3855

for the following Project:   **Master Agreement for On-Call Professional Traffic Engineering Services, Contract Number 2009-002**

The City and the Consultant agree as set forth below.

**THIS AMENDMENT NUMBER ONE** is made and entered by and between the City of Frisco, Texas, a Home-Rule Municipal Corporation, hereinafter referred to as "City," and Lee Engineering, LLC, hereinafter referred to as "Consultant," to be effective from and after the date as provided herein, hereinafter referred to as the "Amendment Number One."

**WHEREAS**, the Consultant entered into that certain agreement for professional traffic engineering services on an on-call basis, dated June 16, 2009, which Agreement is incorporated herein by reference as if fully set forth herein, hereinafter referred to as the "Agreement;" and

**WHEREAS**, the City and Consultant desire to amend the Agreement for the purpose of revising the Consultant's Fee (defined in the Agreement) to include the

provision of Additional Services; referencing the Additional Services for the Project in relation to the City's reimbursement of the Consultant's Direct Expenses for the Project; and referencing the Additional Services for the Project in relation to the Consultant's submission of invoices to the City for work on the Project, which Agreement is incorporated herein by reference as if fully set forth herein, hereinafter referred to as "Amendment Number One;" and

WHEREAS, the City and Consultant desire to amend the Agreement as hereinafter set forth.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, the mutual benefits to be obtained hereby and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Consultant do mutually agree as follows:

1. Additional Project Services. City and Consultant agree that this Amendment Number One amends the Agreement for the purpose of, among other things, establishing additional Project services to be performed by Consultant, as more particularly described in the following exhibits, attached hereto and incorporated herein for all purposes:
  - a. Exhibit "H," Compensation Schedule / Project Billing / Project Budget for the Scope of Additional Services, dated March 29, 2011.
2. Amendment to Agreement, Article 1, Section 1.3, Schedule of Work – The Consultant agrees to commence work immediately upon the execution of this Agreement, and to proceed diligently with said work to completion as described in the Compensation Schedule / Project Billing / Project Budget attached hereto as Exhibit "B" and the Compensation Schedule / Project Billing / Project Budget for Additional Services, Dated March 29, 2011 attached hereto as Exhibit "H" and incorporated herein by reference for all purposes, but in no event shall the Project be completed any later than July 1, 2010; however, City shall have sole discretion to authorize a renewal of this Agreement to extend to completion of the Project to a date no later than July 1, 2011.
3. Amendment to Agreement, Article 3, Section 3.1, Compensation for Consultant's Services – As described in "Article 1, Consultant's Services," compensation for this Project shall be on a basis as defined by City's issuance of written Task Orders to Consultant authorizing work on the Project; written Task Orders issued by the City to Consultant shall not exceed a total amount of ~~Two Hundred Seventy-Five Thousand and 00/100 Dollars (\$275,000.00)~~ Four Hundred Fifteen Thousand and 00/100 Dollars (\$415,000.00) ("Consultant's Fee") and shall be paid in accordance with Article 3, the Compensation Schedule

/ Project Billing / Project Budget as set forth in Exhibit "B" and the Task Orders issued by City in writing to Consultant, in the format as stated in Exhibit "A."

4. Amendment to Agreement, Article 3, Section 3.2, Direct Expenses. Article 3, Section 3.2 of the Agreement is hereby amended as follows:

"3.2 Direct Expenses – Direct Expenses are included in the Consultant's Fee as described in Article 3.1 and include actual reasonable and necessary expenditures made by the Consultant and the Consultant's employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit "B," and the Compensation Schedule / Project Billing / Project Budget for Additional Services, dated March 29, 2011 set forth in Exhibit "H," and consistent with Exhibit "D," City of Frisco Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses. The Consultant shall be solely responsible for the auditing of all Direct Expenses, including the subcontractors, prior to submitting to the City for reimbursement, and shall be responsible for the accuracy thereof. Any overpayment by the City for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment for services; provided, however this shall not be the City's sole and exclusive remedy for said overpayment."

5. Amendment to Agreement, Article 3, Section 3.4, Invoices. Article 3, Section 3.4 of the Agreement is hereby amended as follows:

"3.4 Invoices – No payment to Consultant shall be made until the Consultant tenders an invoice to the City. The Consultant shall submit monthly invoices for services rendered, based upon the actual percentage of work complete at the time the invoice is prepared, or are to be mailed out to City immediately upon completion of each individual task listed in Exhibit "B," and Exhibit "H." On all submitted invoices for services rendered and work completed on a monthly basis, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Such background materials shall include, but is not limited to, employee timesheets, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges."

6. Complete Agreement. This Amendment Number One, including the exhibits attached hereto and labeled "H" and "I," both of which are incorporated herein for all purposes, constitutes the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Amendment Number

One may not be amended, supplemented, and/or modified except by written instrument duly executed by both parties. Exhibits "H-I" are attached hereto and made a part of this Agreement and this Amendment Number One.

7. **Counterparts**. This Amendment Number One may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes. If so executed, each of such counterparts shall, collectively, constitute one Amendment Number One. A facsimile signature will also be deemed to constitute an original if properly executed.
8. **Controlling Agreement**. To the extent any provision contained herein conflicts with the Agreement, the provisions contained herein shall supersede such conflicting provisions contained in the Agreement.
9. **Defined Terms / Ratification of Agreement**. Any term not defined herein shall be deemed to have the same meaning ascribed to it under the Agreement. Except as expressly amended hereby, all of the terms, provisions, covenants and conditions of the Agreement are hereby ratified and confirmed and shall continue in full force and effect.
10. **Authority to Execute**. The individuals executing this Amendment Number One represent and warrant that they are empowered and duly authorized to so execute this Amendment Number One on behalf of the parties they represent.
11. **Entire Agreement / Amendment Number One**. This Amendment Number One and the Agreement embody the entire agreement by and between the parties regarding the subject matters hereof. There are no oral understandings or arrangements between the parties regarding the subject matter hereof.
12. **Venue**. The Agreement and the Amendment Number One shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Collin County, Texas.
13. **Assignment**. This Amendment Number One may not be assigned except as authorized in the Agreement.
14. **Appropriation of Funds**. Funds are not presently budgeted for City's performance under the Agreement beyond the end of the City's 2010-2011 fiscal year. City will give Consultant sixty (60) days notice if funds for City's performance are no longer budgeted to continue beyond that time. City shall have no liability for payment of any money for services performed after the end of the City's 2010-2011 fiscal year unless and until such funds are budgeted.

IN WITNESS HEREOF, the parties have executed this Amendment Number One to the Agreement, and caused this Amendment Number One to be effective on the latest day as reflected by the signatures below.

**CITY**  
The City of Frisco, Texas

By: \_\_\_\_\_  
Name: George Purefoy  
Title: City Manager

**CONSULTANT**  
Lee Engineering, LLC

By:   
Name: Joseph T. Short  
Title: President

**APPROVED AS TO FORM:**

  
Abernathy, Roeder, Boyd, and Joplin, P.C.

STATE OF TEXAS:

COUNTY OF \_\_\_\_\_:

BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED **GEORGE PUREFOY**, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION EXPRESSED, AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS  
My commission expires: \_\_\_\_\_

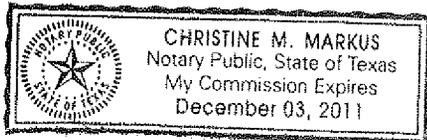
STATE OF TEXAS:

COUNTY OF Dallas:

BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED **JOSEPH SHORT, P.E., PTOE**, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION EXPRESSED, AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 6<sup>th</sup> DAY OF April, 2011.

Christine M. Markus  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS  
My commission expires: December 3, 2011



**EXHIBIT "H"**  
**COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET**  
**March 29, 2011**

Agreement by and between  
the City of Frisco, Texas (City)  
and Lee Engineering, LLC (Consultant)  
for Master Agreement for On-Call Professional Engineering Services  
Contract Number 2009-002 (Project)

**I. COMPENSATION SCHEDULE / PROJECT BILLING SUMMARY.**

MONTH, DATE, YEAR	DOLLAR AMOUNT	TASK COMPLETED
April 19, 2011	--	City Council approval of a Resolution authorizing the City Manager to execute the Agreement; City issues Notice to Proceed to Consultant.
April 25, 2011	--	Consultant's receipt of fully executed Agreement.
April 20, 2011 through July 1, 2011	\$ 140,000.00	Consultant to perform services as authorized by City's issuance of written Task Orders (Work and payment schedule shall be as defined in the authorized Task Orders).
July 1, 2011	--	Expiration of the Renewal of the Agreement; City does not have the ability to extend the Agreement for another term past this date.
<b>GRAND TOTAL, CONSULTANT'S FEE – AMENDMENT NUMBER ONE (NOT-TO-EXCEED)</b>	<b>\$ 140,000.00</b>	--

**II. PROJECT BUDGET SUMMARY.**

**A. Basic Services.**

- |   |                      |
|---|----------------------|
| 1. Work Authorized by written Task Orders.      | \$ 140,000.00        |
| 2. <u>Total Basic Services (Not-to-Exceed).</u> | <u>\$ 140,000.00</u> |

- B. Grand Total, Consultant's Fee – Amendment Number One (Not-to-Exceed).**     **\$ 140,000.00**

**III. SUMMARY OF PROJECT BUDGET REVISIONS.**

#	TASK DESCRIPTION	ORIGINAL AGREEMENT	AMENDMENT NUMBER ONE	REVISED PROJECT BUDGET
1	Work Authorized by Written Task Orders.	\$ 275,000.00	\$ 0.00	\$ 275,000.00
2	Additional Services, work authorized by Written Task Orders.	\$ 0.00	\$ 140,000.00	\$ 140,000.00
<b>GRAND TOTAL, PROJECT BUDGET</b>		<b>\$ 275,000.00</b>	<b>\$ 140,000.00</b>	<b>\$ 415,000.00</b>