

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

**DEPARTMENT:** Economic Development  
**AGENDA DATE:** February 9, 2010  
**CONTACT PERSON/PHONE:** Kathy Dodson, PhD, Director 541-4670  
**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

Discussion and action on a Resolution establishing a Multi-Family Housing Green Building Grant Program and approving Program Guidelines; and authorizing the City Manager to execute any and all documents related to the establishment and operation of the City's Multi-Family Housing Green Building Grant Program, including standard grant agreements. Funding comes from the Palo Verde Performance Awards from the El Paso Electric Company used to pay for demand-side management programs.

**BACKGROUND / DISCUSSION:**

On January 6, 2006, the City Council authorized the City Manager to enter into an agreement with the El Paso Electric Company ("EPEC") to accept Palo Verde Performance Awards from EPEC to be used to pay for demand-side management programs, which could include such projects as a grant program intended to increase the number of Green Buildings in the City of El Paso. The development and implementation of a grant program intended to provide for the increase in the number of sustainable multi-family housing buildings within the City of El Paso is a direct benefit to the environment and encourages sustainable building practices in the region.

**PRIOR COUNCIL ACTION:**

None

**AMOUNT AND SOURCE OF FUNDING:**

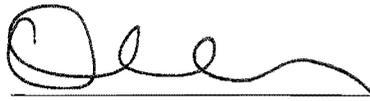
\$400,000 from Palo Verde Performance Awards from the El Paso Electric Company (fund 07408; remaining balance of \$2,324,822)

**BOARD / COMMISSION ACTION:**

Approved by LRC 01/26/10

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

**DEPARTMENT HEAD:**



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

*Information copy to appropriate Deputy City Manager*

**RESOLUTION**

**WHEREAS**, the City of El Paso is interested in promoting the construction of sustainable multi-family housing buildings that are protective of the environment, energy efficient and safe ("Green Buildings"); and

**WHEREAS**, on January 6, 2006, the City Council authorized the City Manager to enter into an agreement with the El Paso Electric Company ("EPEC") to accept Palo Verde Performance Awards from EPEC to be used to pay for demand-side management programs, which could include such projects as a grant program intended to increase the number of Green Buildings in the City of El Paso; and

**WHEREAS**, the City of El Paso finds that the development and implementation of a grant program intended to provide for the increase in the number of sustainable multi-family housing buildings within the City of El Paso is a direct benefit to the environment, is in the best interest of the public and will benefit the City of El Paso and its citizens, and as such, constitutes an important public purpose or benefit to the City, for which the City is willing to expend resources.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

- (1) That the City's Multi-Family Housing Green Building Grant Program is hereby established;
- (2) That the City's Multi-Family Housing Green Building Grant Program Guidelines, attached as Exhibit "A", are hereby adopted; and
- (3) That the City Manager is hereby authorized to execute any and all documents related to the establishment and operation of the City's Multi-Family Housing Green Building Grant Program, including the standard grant agreement for the Program, attached as Exhibit "B."

**ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2010.**

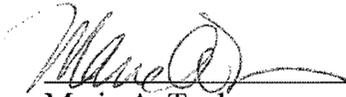
**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook  
Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Marie A. Taylor  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Kathryn B. Dodson, Ph.D., Director  
Economic Development Department

**The City of El Paso's  
Multi-Family Green Building Grant Program Guidelines**

**Objective**

The goal of the City of El Paso's Multi-Family Green Building Grant Program is to encourage private sector multifamily builders to build sustainable multifamily buildings within the City of El Paso. Providing incentives for the design of multifamily buildings certified under the ANSI's National Green Buildings Standard™ underscores the City's commitment to improving the quality, cost effectiveness and safety of the built environment while conserving energy and reducing stress on the natural environment. The City of El Paso finds that the development and implementation of a grant program intended to increase the construction of sustainable buildings within the City of El Paso is a benefit to the environment and is therefore in the best interest of the public and will benefit the City of El Paso and its citizens. As such, the implementation of the City of El Paso's Multi-Family Green Building Grant Program constitutes an important public purpose or benefit to the City, for which the City is willing to expend its resources. In addition, providing this incentive to multi-family developers helps the City meet its economic development goal of increasing the number of multi-family units in El Paso to deal with a deficit of 8,000 units as projected by the Department of Defense due to the large number of incoming soldiers and family members related to the BRAC expansion.

**Grant Award Amounts**

Subject to these guidelines and the availability of funds, Multifamily Green Building Grant awards may be awarded to successful applicants who construct new multifamily units in El Paso that meet ANSI's National Green Buildings Standard™. Award amounts will be \$100 per unit for reaching ANSI's National Green Buildings Standard™ of Bronze or higher, and the award will be available for a total of 4,000 units on a first come, first serve basis.

**Grant Award Eligibility**

All new multifamily construction is eligible for the Multi-Family Green Building Grants. Multi-Family Green Building Grant Awards may not be awarded to employees of the City of El Paso or applicants owing any debts to the City of El Paso, including but not limited to taxes, fines and penalties.

Grants will be reviewed on a first-come, first-served basis pursuant to the submittal date of the completed Grant Application. City staff shall review all applications for completeness. The City shall reserve funds for any approved Grant Applications, subject to the availability of such funds. However, Grantees will be required to provide verification of ANSI's National Green Buildings Standard™ certification and receive a Certificate of Occupancy before any grant funds are released.

### **Requirements of Grant Recipients**

In order to be eligible for the award of any Grant Funds, Grant Recipients shall, at a minimum, commit to the following:

- Provide verification to the City of all statements made in the Grant Application;
- Provide verification of project completion to the level specified in application by submitting ANSI's National Green Buildings Standard™ Certification
- Allow the City to evaluate the payback and performance of the building;
- Cooperate in the City's creation of educational materials, case studies, or photos; and,
- Agree to make the building available for green building tours, upon reasonable notice and request by the City in advance.

### **Application Requirements**

Grant funds are reserved for projects with complete and accurate applications. Complete applications will consist of the following:

- Complete application form;
- Proof of ANSI's National Green Buildings Standard™; and

### **Grant Application Review and Approval Process**

#### 1) Submit Application.

Applications with all supporting documentation are to be submitted to the City's Economic Development Department. City staff shall review the application for completeness and shall return incomplete applications to the applicant for additional information.

#### 2) Reservation of Grant Funds.

Subject to availability of funds and upon verification of completeness, the City shall reserve grant funds for all projects that meet eligibility requirements on a first-come first-served basis. These funds will be placed in reserve until a Certificate of Occupancy is attained and ANSI's National Green Buildings Standard<sup>TM</sup> Certification is verified or the Reserve Period, as described below, expires.

3) Funding.

- a) Funds will be held in reserve for a maximum of eighteen (18) months from the date of the City's acceptance of a complete Grant Application. A grant will become void and those funds may be awarded to other grantee applicants if a Certificate of Occupancy is not issued and/or ANSI's National Green Buildings Standard<sup>TM</sup> Certification is not verified within this Reserve Period. Extensions may be granted at the discretion of the City Council, upon grantee's presentation of a request and the Council's finding that such request is reasonable, provided the circumstances of the delay and the scope of the proposed project.
- b) Grant Funds will be awarded when a Certificate of Occupancy is issued and when certification of achievement of Bronze or higher of ANSI's National Green Buildings Standard<sup>TM</sup> has been verified.

4) Forfeiture of Funds.

Funds must be refunded to the City of El Paso if the Certificate of Occupancy or ANSI's National Green Buildings Standard<sup>TM</sup> Certification is revoked within one (1) year of issuance.

(END OF GUIDELINES)

## Addendum

### About the ANSI's National Green Buildings Standard™

*From <http://www.nahbgreen.org/Guidelines/ansistandard.aspx>:*

In 2007 the National Association of Home Builders (NAHB) and the International Code Council (ICC) partnered to form to establish a much-needed and nationally-recognizable standard definition of what is meant by "Green Building."

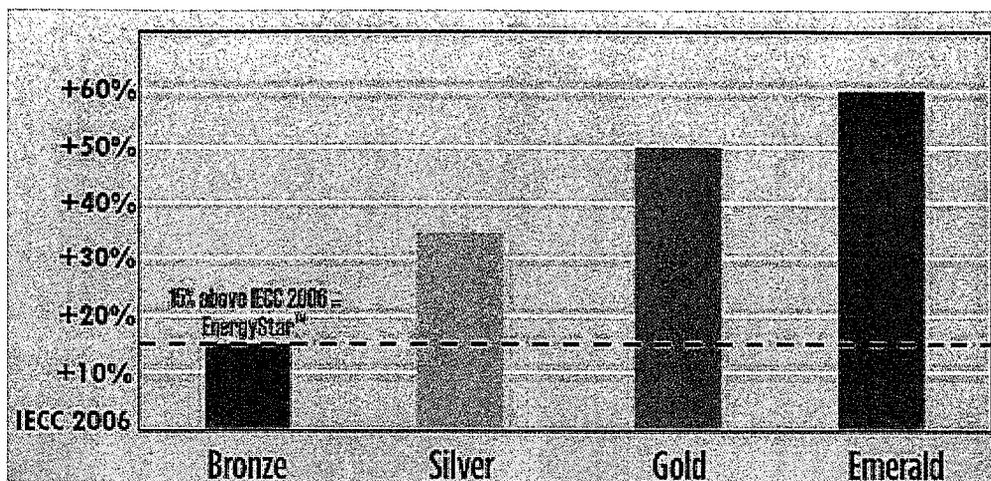
A consensus committee was formed to develop this standard in compliance with the requirements of the American National Standards Institute (ANSI). The resulting ANSI approved ICC-700-2008 National Green Building Standard defines green building for single and multifamily homes, residential remodeling projects and site development projects while still allowing for the flexibility required for regionally-appropriate best green practices.

Similar to the NAHB Model Green Homebuilding Guidelines, a builder, remodeler or developer must incorporate a minimum number of features in the following areas: energy, water, and resource efficiency, lot and site development, indoor environmental quality, and home owner education. The more points accrued, the higher the score.

Threshold Point Ratings for Green Buildings						
Green Building Categories			Performance Point Levels (1) (2)			
			BRONZE	SILVER	GOLD	EMERALD
1.	Chapter 5	Lot Design, Preparation, and Development	39	66	93	119
2.	Chapter 6	Resource Efficiency	45	79	113	146
3.	Chapter 7	Energy Efficiency	30	60	100	120
4.	Chapter 8	Water Efficiency	14	26	41	60
5.	Chapter 9	Indoor Environmental Quality	36	65	100	140
6.	Chapter 10	Operation, Maintenance, and Building Owner Education	8	10	11	12
7.	Additional Points from any category		50	100	100	100
<b>Total Points</b>			<b>222</b>	<b>406</b>	<b>558</b>	<b>697</b>
(1) In addition to the threshold number of points in each category, all mandatory provisions of each category shall be implemented.						
(2) For dwelling units greater than 4,000 square feet (372 square meters), the number of points in Category 7 (Additional Points from any category) shall be increased in accordance with Section 601.1. The "Total Points" shall be increased by the same number of points.						

Threshold Point Ratings for Site Design and Development					
Green Subdivision Category		Performance Point Levels			
		One Star	Two Stars	Three Stars	Four Stars
Chapter 4	Site Design and Development	79	104	134	175

Many of the mandatory measures found in The National Green Building Standard are consistent with the International Code Council's I-Codes. Additionally, the baseline for energy savings has been updated to IECC 2006. To qualify for "Bronze" in the energy efficiency chapter of the Standard, a home must be at least 15% better than the 2006 IECC (ENERGY STAR™ equivalent). Below is a rough breakdown of the energy efficiency differences between thresholds and illustrates the percentage above ENERGY STAR™ requirements needed to achieve higher thresholds within the Green Building Standard's Energy Efficiency performance path.



**[Multi-Family Housing] Green Building Grant Program**  
Grant Agreement

This Agreement ("Agreement"), by and between the City of El Paso, Texas ("City"), and ("Participant"), is made on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**WHEREAS**, the City of El Paso is interested in promoting the construction of sustainable buildings that are protective of the environment, energy efficient and safe ("Green Buildings") through the development and implementation of a grant program for builders interested in constructing new or renovating existing buildings into Green Buildings; and

**WHEREAS**, On January 6, 2006, the City Council authorized the City Manager to enter into an agreement with the El Paso Electric Company to accept Palo Verde Performance Awards from EPE to be used to pay for demand-side management programs, which could include such projects as a grant program intended to increase the number of Green Buildings in the City of El Paso; and

**WHEREAS**, on [September 11, 2007/\_\_\_\_\_, 2010], the City established of a [Multi-Family Housing] Green Building Grant Program ("Program") intended to provide for the increase in the number of sustainable [multi-family] residential buildings within the City of El Paso as a direct benefit to the environment, in the best interest of the public and beneficial to the City of El Paso and its citizens; and

**WHEREAS**, Participant's building(s) is located in the City of El Paso and Participant desires to participate in the Program, pursuant to the terms and conditions of this Agreement and the Program Guidelines.

**NOW, THEREFORE**, in consideration of the promises and of the mutual covenants and agreements of the parties hereto, the parties hereto agree as follows:

**1. Participant's Obligations.**

(a) To be eligible for the award of any Grant Funds, Participant shall provide the following to the City:

(i) verification to the City of all statements made in the Participant's Grant Application for the Program;

(ii) verification of project completion to the level specified in Participant's Application by submission of [LEED Certification/ ANSI's National Green Buildings Standard™ Certification] and other related documentation from the U.S. Green Building Council, acceptable to the City;

(b) Participant agrees to:

(i) allow the City to evaluate the payback and performance of the building(s);

EXHIBIT "B"- FORM CONTRACT

(ii) cooperate in the City's creation of education materials, case studies, or photos of the building(s) and/or project for promotional and non-commercial purposes; and

(iii) make the building(s) and/or project available for green building tours, upon reasonable notice and request by the City in advance.

(c) Participant understands, acknowledges, and agrees that:

(i) Grant funds paid to Participant under this Program shall be refunded to the City if the Certificate of Occupancy or [LEED Certification/ANSI National Green Buildings Standard™ Certification] for the subject building(s) or development is revoked within one (1) year of issuance. Partial refunds to the City will be required by Participant if the building(s) is not certified at the level applied for in Participant's Application to the Program.

**2. Grant Eligibility Requirements.** [DELETE this Section when funding a Multi-family Housing Grant] The Participant understands and agrees that in order to be eligible for any Grant funds, a project must:

- (a) include the construction, renovation or remodeling of a minimum of FIFTEEN THOUSAND (15,000) square feet; provided, however, that this requirement will be reduced to a minimum of FIVE THOUSAND (5,000) square feet where the Participant demonstrates to the City's satisfaction that it has or will be investing over \$5 Million as total investment for the project; and
- (b) achieve a minimum of ten (10) of the seventeen (17)-point requirement noted in the "Energy and Atmosphere" section of the LEED Project Checklist, in addition to all other LEED Green Building Rating System requirements.

**3. Reservation of Grant Funds.** [Re-number as No. 2 for Multi-Family Housing Grant] Subject to the availability of funds and upon verification of completeness, the City shall reserve Grant funds for all projects that meet eligibility requirements on a first-come first-serve basis. The Grant Funds for Participant's building(s) and/or project will be placed in reserve until a Certificate of Occupancy is attained or until the Reserve Period, as described below, expires, subject to the following terms and conditions:

- (a) Grant funds will be held in reserve for a maximum of eighteen (18) months from the date of the City's acceptance of Participant's completed Grant Application (the "Reserve Period"). Extensions may be grant at the discretion of the City Council, upon Participant's presentation of a request and the Council's finding that such request is reasonable, provided the circumstances of the delay and the scope of the proposed project.
- (b) Grant funds will be awarded to Participant when a Certification of Occupancy is issued and all [LEED/ANSI National Green Building Standard™ Certification] credits have been verified by the City.

[DELETE the subparagraph (c) below that does not apply for the Grant:]

EXHIBIT "B"- FORM CONTRACT

(c) For Commercial and Mixed Use development projects, grant fund award amounts under the Program are determined by attainment of one of four levels of LEED certification, beginning at \$50,000.00 for basic certification, and increasing by \$50,000 for each additional level of attainment, up to a maximum of \$200,000 per building. The grant award amounts are doubled for major renovation of buildings that are a minimum of five stories and where at least fifty percent (50%) of the building has been vacant for at least five (5) years.

	New Construction	*Qualified remodels
LEED Certification	\$50,000	\$100,000
LEED Silver	\$100,000	\$200,000
LEED Gold	\$150,000	\$300,000
LEED Platinum	\$200,000	\$400,000
*Five-story, 50% of more vacant at least 5 years		

(c) For Multi-Family housing development projects, grant fund award amounts under the Program are determined by attainment of one of four levels of ANSI's National Green Buildings Standard™ Certification and award amounts under the Program will be \$100 per unit for reaching any level of certification (Bronze or higher) and available to only a Program total of 4,000 housing units on a first-come, first-serve basis.

3. **Representations.** Participant represents, warrants, and agrees as follows:

(a) Participant has not made any misrepresentations of material fact, or failed to disclose any material fact in connection with efforts to obtain the award of Grant funds under this Agreement.

(b) Participant will comply with all applicable federal, state, and local laws and regulations in performance of its duties under this Agreement.

(c) The parties do not have the authority to bind the other or hold out to third parties that it has the authority to bind the other.

(d) Participant is an independent contractor and is not an employee of the City and that the City are not responsible for the Participant's actions or inactions in performing the work or that of the Participant's employees, contractors, or subcontractors.

(e) Participant agrees not to knowingly employ any undocumented workers as defined in Texas Government Code Section 2264.001 in the construction and/or rehabilitation of the subject building(s) and/or project. If convicted of a violation under 8 U.S.C. Section 1324a(f), Participant shall repay the amount of the Grant funds received by Participant from the City as of the date of such violation not later than one hundred twenty (120) days after the date Participant is notified by City of a violation of this section, plus interest from the date the reimbursement payment(s) was paid to Participant, at the rate of seven percent (7%) per annum. The interest will accrue from the date the Grant fund payment(s) were paid to Participant until the date the Grant fund payments are repaid to City. City may also recover court costs and reasonable attorney's fees incurred in an action to recover the reimbursement

EXHIBIT "B"- FORM CONTRACT

payment(s) subject to repayment under this section. Participant is not liable for a violation by its subsidiary, affiliate, or franchisee, or by a person which whom Participant contracts.

4. **Amendments.** This Agreement may be modified, amended, changed if done in writing and signed by the parties.

5. **Entire Agreement.** This Agreement, together with the referenced documents, is the entire agreement between the parties.

6. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the addresses shown below.

CITY: City of El Paso  
Attn: Economic Development Department Director  
2 Civic Center Plaza, 2<sup>nd</sup> floor  
El Paso, Texas 79901

PARTICIPANT:

or such other addresses as the parties may designate to each other in writing from time to time.

7. **Governing Law.** The laws of the State of Texas govern this Agreement and venue is in El Paso County, Texas.

8. **Captions.** The Section headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

9. **Severability.** The provisions of this Agreement are severable and if any term or provision is found illegal or invalid, the validity of the rest of this Agreement will not be affected.

**EXECUTED** on the day and year first written above.

**THE CITY OF EL PASO:**

\_\_\_\_\_  
Joyce A. Wilson  
City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Marie A. Taylor  
Assistant City Attorney

\_\_\_\_\_  
Kathryn B. Dodson, Ph.D., Director  
Economic Development Department

EXHIBIT "B"- FORM CONTRACT

**PARTICIPANT:**

By: \_\_\_\_\_

\_\_\_\_\_  
Name/Title (Printed):