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

DEPARTMENT: Community and Human Development

AGENDA DATE: February 23, 2010

CONTACT PERSON NAME AND PHONE NUMBER: William Lilly, 541-4241

DISTRICT(S) AFFECTED: 3, 8

SUBJECT:
A Resolution authorizing the City Manager to sign a sub-recipient grant contract with El Paso Independent School District in connection with the City's Weed and Seed DOJ Grant Program, awarding an amount not to exceed $10,000.00 to support a tutoring program for at-risk youth in elementary and middle schools within the Chamizal Neighborhood Weed and Seed boundary, subject to the terms and conditions of the grant contract.

BACKGROUND / DISCUSSION:
The City is currently receiving $142,000.00 of Department of Justice funding to implement Year 2 of a five-year Weed and Seed strategy to reduce violent crime, gangs and drugs in the Chamizal Neighborhood and Segundo Barrio. As part of the Year 2 budget, $10,000.00 is set aside for tutoring of at-risk youths in the neighborhoods.

Part of the Weed and Seed strategy includes increasing educational attainment and reducing drop out rates at the schools within the Weed and Seed site. The public schools are inside of the El Paso Independent School District (EPISD) and EPISD has certified tutors that are well-versed in the curricula and requirements that need to be met by the students that will be participating in the tutoring program.

The Armijo Recreation Center has been designated as the Weed and Seed Safe Haven where after school recreation and youth mentoring activities have commenced under Weed and Seed funding. The tutoring program is designed to work in conjunction with the Safe Haven program, by having EPISD allow for outreach from Safe Haven staff to the students participating in the tutoring program.

PRIOR COUNCIL ACTION:
On November 10, 2009 council approved a resolution authorizing the City Manager to sign a sub-recipient grant contract with El Paso Independent School District in connection with the City's Year 1 Weed and Seed DOJ Grant funding, awarding an amount of $20,000.00 to support a tutoring program for at-risk youth in elementary and middle schools within the Chamizal Neighborhood Weed and Seed boundary, subject to the terms and conditions of the grant contract. This is essentially a continuation of that program.

AMOUNT AND SOURCE OF FUNDING:
This item will be funded by $10,000.00 of Department of Justice Weed and Seed FY'09 (Year 2) funds which are designated for the use of implementing the Chamizal Neighborhood Weed and Seed strategy.

BOARD / COMMISSION ACTION:
N/A

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

DEPARTMENT HEAD: _____

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

Information copy to appropriate Deputy City Manager

RESOLUTION

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

That the City Manager be authorized to sign a sub-recipient grant contract with El Paso Independent School District in connection with the City's Weed and Seed DOJ Grant Program (FY09), awarding an amount not to exceed $10,000.00 to support a tutoring program for at-risk youth in elementary and middle schools within the Chamizal Neighborhood Weed and Seed boundary, subject to the terms and conditions of the grant contract.

ADOPTED this _____ day of _____, 2010.

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:

_____
William L. Lilly, Director
Community and Human Development

CHD/NS/Reso/10/Weed & Seed/At Risk Youth Tutoring/EPISD FY09
Document: #54252/MTAY

STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONTRACT

THIS CONTRACT is entered into by and between the **CITY OF EL PASO**, a home-rule municipal corporation of El Paso County, Texas, hereinafter referred to as the "City", and **EL PASO INDEPENDENT SCHOOL DISTRICT**, an independent school district, hereinafter referred to as "Contractor."

WHEREAS, a grant has been made to the City through the United States Department of Justice, Community Capacity Development Office, Weed and Seed Program funds, hereinafter referred to as the "Weed and Seed Program"; and

WHEREAS, this is an award of federal assistance to the City and Grantee is considered to be a subrecipient of federal financial assistance; and

WHEREAS, the City desires to provide Weed & Seed funds to Contractor to administer Contractor's **Weed and Seed At-Risk Youth Chamizal Project** as further described herein.

NOW, THEREFORE, the City and Contractor, in consideration of the terms, conditions, and covenants contained herein, hereby agree as follows:

SECTION 1. CONTRACT PERIOD

This Contract shall commence on March 1, 2010 and shall terminate on June 30, 2010, unless otherwise specifically provided by the terms of this Contract or terminated sooner in accordance with the terms and conditions of this Contract.

SECTION 2. PROJECT SCOPE

A. The Contractor shall perform all activities as specifically set forth in the Project Scope, attached hereto as **Exhibit "A"** and incorporated herein for all purposes, to be performed in the designated project area, as more specifically described in **Attachment 2**, attached hereto and incorporated herein for all purposes.

B. The City designates the Weed & Seed Coordinator, Neighborhood Services Division, Community and Human Development Department, as the Contractor's primary contact during the term of this Contract.

SECTION 3. CITY'S OBLIGATIONS

In consideration of full and satisfactory performance of the activities referred to in Section 2 and **Exhibit "A"** of this Contract, the City agrees to reimburse to Contractor certain Weed & Seed grant funds in accordance with all applicable rules, regulations and guidelines for

actual and reasonable costs incurred by Contractor during the term of this Contract for performances rendered by Contractor, subject to the terms, conditions, and limitations set forth in this Contract.

SECTION 4. COMPENSATION AND REPORTING

A. The City shall reimburse to Contractor an amount not to exceed TEN THOUSAND AND 00/100 DOLLARS ($10,000.00), representing the cost for all services performed pursuant to this Contract, as further described in the Project Scope, attached hereto as **Exhibit "A"**.

B. Subject to the terms and conditions of this Contract, payment shall be made on a reimbursement basis and in accordance with the following requirements:

(1) Contractor shall submit to the City a reimbursement request and the requisite reports, as identified in **Exhibit "A"**, on a monthly basis for services performed and expenses incurred in the previous calendar month. All reimbursement requests submitted by Contractor must be supported and accompanied by valid invoices or other supporting documentation of financial liability acceptable to the City. Compensation shall be allowed on a reimbursement basis and only after expenditures have been incurred by Contractor in conformity with the approved budget in **Attachment 1**, attached hereto and incorporated by reference herein for all purposes.

(2) In no event shall compensation to Contractor exceed the lesser of Contractor's costs attributable to the work performed, or the monetary limits described in **Attachment 1**, nor shall the City pay for expenses or services which are or will be reimbursed by another funding source or for services which are not performed. However, Contractor may make transfers of funds between or among budget categories, as contained in **Attachment 1**, subject to the approval of the Director of Community and Human Development, hereinafter referred to as "Director," provided that:

a. The dollar amount of all transfers among existing categories is equal to or less than ten percent (10%) of the total amount of this Contract;

b. The transfer will not change the scope or objective of the services funded under this Contract; and

c. Contractor submits a Budget Revision Report to City, simultaneously with the submission of Contractor's Reimbursement Request Report. Budget revisions must contain a complete explanation and justifications for the changes made, and are subject to the approval of the Director.

(3) Only those costs which are allowable under the terms of this Contract and the approved Budget shall be reimbursed. Budget line items (Attachment 1) represent the maximum amount which may be billed under each line item. A lesser amount may be billed by Contractor.

(4) All requests for reimbursement are subject to the approval of the Director and the City shall thereafter make payment of the approved amount within thirty days of receipt of the request for reimbursement.

C. It is understood and agreed by the parties that the City will not be obligated to pay for any services not contained in **Exhibit "A"** or elsewhere in this Contract and its attachments and that all costs related to completion of services shall meet all requirements of the most current version of the United States Department of Justice, Office of Justice Programs Financial Guide. Except as specifically set forth in this Contract and its attachments, all costs related to the completion of the services requested herein shall be borne by the Contractor and not passed on to the City or otherwise paid by the City, unless a written amendment to this Contract is executed by both parties allowing for additional costs.

SECTION 5. REPRESENTATION OF CONTRACTOR

The Contractor represents, warrants and agrees as follows:

A. It will comply with all applicable federal, state and local governmental laws, rules, regulations and all provisions of the City of El Paso Charter and Code of Ordinances, now existing or as may be amended, in the performance of its duties under this Contract.

B. It shall obtain and pay for all licenses, permits and certificates required by any applicable statue, ordinance, rule or regulation of any regulatory body having jurisdiction over the conduct of its operations hereunder. The Contractor warrants that it is duly authorized and licensed to perform its duties hereunder in each jurisdiction in which it will act. It further warrants that its employees, agents and subcontractors shall maintain all required professional licenses during the term of this Contract. If the Contractor receives notice from a licensing authority of a suspension or revocation of a license of Contractor's employee(s), agent(s) or subcontractor(s), the Contractor shall immediately remove such employee, agent or subcontractor from performing any further services under this Contract until such license is reinstated and in good standing. If the Contractor fails to maintain such licenses or fails to remove any employee, agent or subcontractor who performs services under this contract whose license has expired or been revoked or suspended, the City shall be entitled, in its sole discretion, to immediately terminate this Contract upon notice to the Contractor.

C. It warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the City shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

D. The Contractor is an independent contractor and is responsible for its respective acts or omission, and the City shall in no way be responsible as an employer to Contractor's

employees, agents or subcontractors who perform service in connection with this contract.

E. Neither party hereto has authority to bind the other or to hold out to third parties that it has the authority to bind the other.

F. Contractor agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.

G. Contractor agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organization, as further described in the current edition of the OJP Financial Guide, Chapter 19, as applicable.

H. Contractor understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government.

I. Contractor hereby certifies that it has appropriate hiring policies and screening procedures for employees who will be working with youth and other residents with respect to Contractor's performance of the services to be rendered under this Contract.

J. Contractor represents, understands, and agrees that the services to be performed herein are for criminal justice purposes. For purposes of this Contract and the City's Weed and Seed Program, "criminal justice" means "activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control or reduction of narcotic addiction and juvenile delinquency."

K. Contractor represents and warrants that the person executing this Contract and all documents related thereto has the authority to commit Contractor to the obligations, financial and otherwise, required by this Contract.

SECTION 6. CONFIDENTIAL WORK

A. Contractor recognizes that all materials to be prepared hereunder and all data received by the Contractor shall be kept in strictest confidence. The Contractor shall not divulge such confidential information except as approved in writing by the City or as otherwise required by law.

B. The Contractor shall establish a method to secure the confidentiality of records or information that the Contractor may have access to in accordance with the applicable federal, state, and local laws and regulations. This provision shall not be construed as

limiting the City's or its authorized representatives, right of access to records or other information under this Contract.

C. The confidentiality of records and any other records related to the performance of this Contract will be maintained in accordance with and subject to all applicable laws, including the Public Information Act, Chapter 552, Texas Government Code.

SECTION 7. FORM, ACCESS, AND RETENTION OF RECORDS

A. Contractor shall prepare and maintain files, books, and records, including property, personnel and financial records, as they pertain to costs incurred, audits, administration, activities and functions, and recordkeeping, in connection with the services to be performed under this Contract and shall document all transactions and services performed under this Contract. These records shall be maintained for a period of three (3) years after the termination or expiration of this Contract.

B. The City or any authorized representative shall have a right of access to make copies of and a right to examine all records, files, books, papers, or documents which are deemed pertinent to the performance of this Contract, as determined solely in the reasonable exercise of the City's or its authorized representative's discretion. Copying and auditing will be performed at a reasonable time and place, such as during Contractor's usual business hours, and at Contractor's principal place of business or office. This right shall continue for three (3) years after termination or expiration of this Contract. The City or its authorized representative may additionally request the copying, mailing and/or electronic transmission of records by Contractor.

C. City reserves the right on its behalf, and on behalf of the U.S. Department of Justice, to perform, or have their designees perform, a periodic on-site and desk audit monitoring of Contractor's compliance with the provisions of this Contract. The monitoring shall be conducted in a reasonable time, place and manner by the City. Contractor shall provide the assistance and information needed by the City in monitoring and evaluating the performance of the above-mentioned areas of accountability. It is understood that the City, or its designee, may perform periodic fiscal and programmatic monitoring reviews, including a review of any audit conducted by Contractor. The City, the U.S. Department of Justice, and/or their designees may request the copying, mailing, and/or electronic transmission of Contractor's records in connection with an on-site or desk audit monitoring.

D. The City's right of access to Contractor's records, files, books, papers, and other documents under this Contract, and specifically this Section 7, shall be at all times subject to the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g.

SECTION 8. NONDISCRIMINATION

No person in the United States shall, on the grounds of race, creed, color, national origin (including immigration status where an alien holds proper work authorization), sex, age or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to segregation or discrimination in any way, shape or form in employment or under projects or activities funded in whole or in part with funds made available to Contractor pursuant to this Contract, as set forth in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d) and implementing regulations at Title 24 CFR Part 1; Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-07) and implementing regulations at Title 24 CFR Part 146; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) and implementing regulations at Title 24 CFR Part 8.

SECTION 9. CONFLICT OF INTEREST

Contractor covenants that during the term of this Contract, Contractor, its associates, officers and employees shall have no interest, direct or indirect, which will conflict in any manner with the performance of the services under this Contract and that none of its paid personnel shall be employees of the City or have any contractual relationship with the City. The conflict of interest provision herein applies to any person who is an employee, agent consultant, officer, or elected official or appointed official of the City, or any designated subcontractor which will receive funds under this Contract

SECTION 10. HATCH ACT

Neither the funds advanced pursuant to this Contract, nor any personnel who may be employed by Contractor with funds advanced pursuant to this Contract shall be in any way or to any extent engaged in any conduct or political activity in contravention of Chapter 15 of Title 5 of the United States Code.

SECTION 11. INTEREST OF CERTAIN FEDERAL OFFICIALS

No member of or delegate to the Congress of the United States, and no Resident Commissioners, shall be entitled to any share or part of this Contract between City and Contractor or to any benefits arising there from.

SECTION 12. POLITICAL AND LOBBYING ACTIVITIES PROHIBITED

A. None of the funds, materials, property or services provided directly or indirectly under this Contract shall be used for any partisan political activity or to further the election or defeat of any candidate for public office, or for publicity, lobbying, and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America, the Legislature of the State of Texas, or the City Council of the City of El Paso.

B. Contractor hereby agrees to sign the Certification Regarding Lobbying, attached hereto and made a part of this Contract as **Addendum A**, and if necessary, the Disclosure of Lobbying Activities, attached hereto and made a part of the Certification Regarding Lobbying as **Addendum A**, and return said signed Certification and, if necessary, the completed Disclosure of Lobbying Activities, to City. Contractor shall require the language of the Certification and Disclosure be included in all subcontracts and that all subcontractors shall certify and disclose accordingly.

Contractor understands and agrees that:

1. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

2. Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, set forth in **Addendum A**, attached hereto and made a part hereof, that the person has not made, and will not make, any payment prohibited by this Section.

3. Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a disclosure form, set forth in Addendum A, attached hereto and made a part hereof, if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under this Section if paid for with appropriated funds.

SECTION 13. NON-RELIGIOUS ACTIVITIES

A. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the Weed and Seed Program. Neither the Federal government nor a State or local government receiving funds under the Program shall discriminate against an organization on the basis of the organization's religious character or affiliation.

B. Organizations that are directly funded under the Program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the assistance funded under the applicable Code sections for this Program. If an organization conducts such activities, the activities must be offered separately, in time or location, from the assistance funded under the applicable Code sections for this Program, and participation must be voluntary for the beneficiaries of the assistance provided.

C. A religious organization that participates in the Program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct Program funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities, without removing religious art, icons, scriptures, or other religious symbols. In addition, a Program-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

D. An organization that participates in the Program shall not, in providing program assistance, discriminate against a Program beneficiary or prospective Program beneficiary on the basis of religion or religious belief.

SECTION 14. REQUIRED DOCUMENTATION

Contractor hereby agrees to provide any and all documentation necessary to fulfill any and all grants (federal, state, or local) requirements pertaining hereto.

SECTION 15. INDEMNIFICATION AND INSURANCE

THE PARTIES EXPRESSLY AGREE THAT NEITHER PARTY SHALL HAVE THE RIGHT TO SEEK INDEMNIFICATION OR CONTRIBUTION FROM THE OTHER PARTY FOR ANY LOSSES, COSTS, EXPENSES, OR DAMAGES DIRECTLY OR INDIRECTLY ARISING IN WHOLE OR PART FROM THIS CONTRACT. IT IS THE INTENT OF BOTH PARTIES, AS GOVERNMENTAL ENTITIES, TO PRESERVE THEIR RESPECTIVE SOVEREIGN IMMUNITY TO THE MAXIMUM EXTENT ALLOWED. THE PARTIES THEREFORE ACKNOWLEDGE AND EXPRESSLY AGREE THAT, IN ALL THINGS RELATING TO THIS CONTRACT, CONTRACTOR AND THE CITY ARE PERFORMING GOVERNMENTAL FUNCTIONS, AS DEFINED BY THE TEXAS TORT CLAIMS ACT. FURTHER, NEITHER PARTY WAIVES ITS SOVEREIGN IMMUNITY TO SUIT OR LIABILITY IN ANY RESPECT BY EXECUTING THIS CONTRACT OR ANY OTHER AMENDMENT, MODIFICATION OR AGREEMENT RELATED TO THIS CONTRACT.

SECTION 16. CANCELLATION BY THE CITY

The City shall have the right to cancel for default all or any part of the undelivered portion of this order if the Contractor breaches any of the terms hereof including warranties of the Contractor or if the Contractor becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies that the City may have in law or equity.

SECTION 17. GRATUITIES

The City may, by written notice to the Contractor, cancel this Contract without liability to the Contractor if it is determined by the City that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the City of El Paso with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making or any determinations with respect to the performing of such a contract. In the event this Contract is canceled by the City, pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

SECTION 18. TERMINATION

This Contract may be terminated in whole or in part under any one of the following circumstances:

TERMINATION FOR CONVENIENCE: Either party may terminate this Contract upon written notice, provided such notice specifies an effective date for cancellation of not less than thirty (30) calendar days from the date such notice is received. Such right of termination is in addition to and not in lieu of rights of the City set forth herein. In the event of termination by the City, the Contractor shall not be entitled to lost or anticipated profits. The end of the term of contract, unless extended, is pursuant to provisions of the Contract.

TERMINATION FOR CAUSE: Either party may terminate its performance under this Contract in the event of default by the other party and a failure by that party to cure such default after receiving notice thereof, all as provided in this Section. Default shall occur if a party fails to observe or perform any of its duties under this Contract. Should such a default occur, the injured party may deliver a written notice to the defaulting party describing such default and the proposed date of termination. Such proposed date of termination may not be sooner than the 30th day following receipt of the notice. The injured party, at its sole option, may extend the proposed date of termination to a later date. If prior to the proposed date of termination, the defaulting party cures such default, then the proposed termination shall be ineffective. If the defaulting party fails to cure such default prior to the proposed date of termination, then the injured party may terminate its performance under this Contract as of such date.

FORCE MAJEURE: By reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Contract then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended for only thirty (30) days during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure, as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of

public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty. If a party is unable to comply with the provisions of this Contract by reason of Force Majeure for a period beyond 30 days after the event or cause relied upon, then upon written notice after the thirty (30) days, the City reserves the right to cancel this Contract without any further liability.

EFFECTS OF TERMINATION: All duties and obligations of the City and the Contractor shall cease upon termination or expiration of this Contract, except that:

All provisions of this Contract that expressly or impliedly contemplate or require payment or performance after the expiration or termination of this Contract shall survive such expiration or termination. Any unpaid obligation due and owing, by either party, as of the date of termination, shall continue to be due and payable.

SECTION 19. RIGHT OF ASSURANCE

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, it may demand that the other party give written assurance of its intent to perform. In the event that a demand is made and no assurance is given within five (5) calendar days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

SECTION 20. ASSIGNMENT

Neither party may assign its rights or obligations under this Contract without the prior written consent of the other party hereto. Any attempted assignment or delegation by either party shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

SECTION 21. SUBCONTRACTORS

The Contractor may subcontract with other competent entities to provide services required to be performed under this Contract. Any work or services approved for subcontracting hereunder, however shall be contracted only by written contract and agreement, and unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Contract. Compliance by subcontracts with this Contract shall be Contractor's responsibility. Contractor shall submit a list, identifying the subcontractors who will perform services under this Contract, within ten (10) days of the effective date of this Contract. However, all subcontractors must be accepted and approved by the City in writing, and such consent shall not be unreasonably withheld.

Despite City approval of a subcontract or subcontractor, the City shall in no event be obligated to any third party, including any subcontract of the Contractor, for performance of work or services, nor shall City funds ever be used for payment of work or services performed prior to the date of Contract execution or extending beyond the expiration date of this Contract.

SECTION 22. SURVIVAL

Contractor shall remain obligated to the City under all clauses of this Contract that expressly or by their nature extend beyond the expiration or termination of this Contract, including but not limited to the Indemnification provisions hereof.

SECTION 23. AMENDMENT & WAIVER

The parties may amend this Contract at any time by mutual consent of the parties. Unless otherwise provided herein, this Contract may be amended only by written instrument duly executed on behalf of the City and the Contractor. No claim or right arising out of a breach of this Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

SECTION 24. ENTIRE CONTRACT

This Contract, together with the Exhibits attached hereto, constitutes the entire agreement between the parties hereto relating to the Contract. There exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this Contract confers no rights on any person(s) or business entity(s) that is not a party hereto. This Contract shall not be construed against or unfavorably to any party because of such party's involvement in the preparation or drafting of this Contract.

SECTION 25. APPLICABLE LAW & VENUE

This Contract shall be governed by the laws of the State of Texas along with any applicable provisions of Federal law or the City Charter or any ordinance of the City of El Paso. Both parties agree that venue for any litigation arising from this contract shall lie in El Paso, El Paso County, Texas.

SECTION 26. ADVERTISING BY CONTRACTOR

The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state, or local government or any request under the Texas Public Information Act.

SECTION 27. LEGAL CONSTRUCTION

Every provision of this Contract is severable, and if any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Contract. Where the context of the Contract require, the singular shall include the plural and the masculine gender shall include feminine. The captions of various sections of the Contract are for convenience of reference only, and shall not alter the terms and conditions of this Contract.

SECTION 28. NOTICES

All notices, communications and reports under this Contract shall be either hand delivered or mailed postage prepaid in the United States Postal Service, to the respective parties at the respective addresses shown below, unless and until either party is notified in writing:

CITY: City of El Paso
Department of Community and Human Development
c/o Mr. William Lilly, Director
Two Civic Center Plaza, 8th Floor
El Paso, TX 79901-1196

CONTRACTOR: El Paso Independent School District (EPISD)
6531 Boeing Dr.
El Paso, TX 79925
ATTN: Terri Jordan, Chief of Staff

SECTION 29. COUNTERPARTS

This Contract may be executed in one or more counterparts; signature pages may be detached from such separately executed counterparts and reattached to other counterparts, each of which counterparts when executed and delivered shall be an original and all of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on this _____ day of _____, 2010.

CITY OF EL PASO:

_____
Joyce A. Wilson
City Manager

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

APPROVED AS TO FORM:

Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:

William L. Lilly, Director
Community and Human Development

CONTRACTOR:
EL PASO INDEPENDENT SCHOOL DISTRICT

By: _____

Dr. Lorenzo García, Superintendent

EXHIBIT "A"

PROJECT SCOPE

The purpose of the Exhibit is to delineate the program requirements for the **Weed and Seed At-Risk Youth Tutoring Program**, hereinafter referred to as "Program", for the Weed and Seed FY09 (through September 30, 2010).

I. Contractor shall provide the following services:

A. Provide certified tutors to conduct 400 hours of after school and weekend tutoring at El Paso Independent School District (EPISD) elementary and middle schools within the Weed and Seed boundary (See Attachment 2).

B. Upon prior approval, Contractor will permit the City to distribute acceptable program material and allow for presentations by the City's Parks and Recreation Department staff to tutoring participants for the purpose of promoting and encouraging youth participation in City-sponsored activities at the City's Weed and Seed Safe Haven site at the Armijo Recreation Center, 700 E. 7th Street, El Paso, Texas

II. Records and Reports

A. The following reports shall be provided by Contractor on the required forms by the twentieth (20^{th}) day of each month and shall describe the previous month's Program activities and expenditures. Upon receipt of the reports, the City's Community Development staff will review the reports for accuracy and if acceptable, authorize the City Financial Services Department to transfer funds to the appropriate account. Fund transfers will be performed on a monthly basis. All reports attributable to the Program must be submitted by June 20, 2010 or they will not be considered.

Attachment 3A: Reimbursement Report – An accurate financial account of the use of the funds requested for reimbursement under this contract (must include backup documentation);

Attachment 3B: Scope of Services Report – A report of the program's monthly service activities, progress, and number of students served each month; accurately reporting information pertaining to the scope of services provided (must include backup documentation);

Attachment 3C: Employee Monthly Time Report (must include backup documentation);

Attachment 3D: Budget Revision Report – A request for alteration of budget line items. (This report should only be submitted when a transfer is needed);

Attachment 3E: Outcome Report – (only to be submitted with the final report).

B. Additional informative materials may be attached to the above reports.

III. Administrative Requirements

A. Outcome Statement: In implementing this program:

- At least 100 EPISD students who attend school within the Weed and Seed boundary and who the Contractor has designated as at-risk will receive tutoring services.

ADDENDUM A

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned, on behalf of Contractor, certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-ILL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this Certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of the certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

CONTRACTOR:
ELPASO INDEPENDENT SCHOOL DISTRICT

By: _____

Title: _____

ATTACHMENT 1

PROJECT BUDGET

WEED AND SEED TUTORING PROGRAM BUDGET

Do not include In-Kind Contributions in line item totals

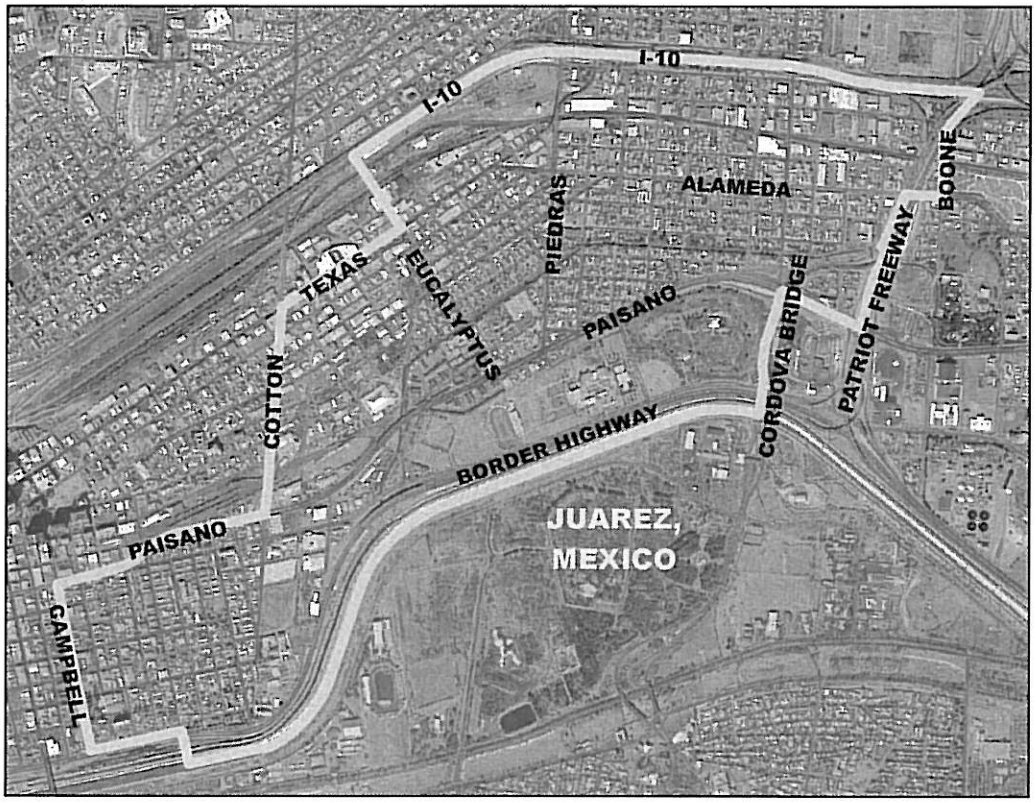
COST COMPONENT	W&S FUNDING REQUEST	OTHER CASH RESOURCES	VALUE OF IN-KIND CONTRIB U-TIONS	TOTAL PROJECT COST (no In-Kind)
Salaries	$10,000.00			$10,000.00
Fringe Benefits				
Mileage				
Professional Services/Consultants				
Rent				
Telephone				
Utilities/Occupancy Expenditures				
Insurance				
Postage/Shipping				
Rental/Maintenance of Equipment				
Travel-Long Distance				
Local Confer/Mtgs./Conventions				
Printing/Publications				
Office Supplies				
Equipment				
Other (specify)				
Class materials				
TOTAL OPERATING BUDGET	$10,000.00	$0.00	$0.00	$10,000.00

This is a proposed budget for the W&S funded project only. It should include expenses for the *entire project*, not just the W&S portion. Please complete the attached supporting schedules for all applicable line items and the budget justification information for all other line items. Be specific, detailed and clear in presenting supporting information. Please double check all figures and ensure that supporting schedules match budget line items. Note: THE PURCHASE OF FOOD AND OTHER INCENTIVES FOR PARTICIPATION IN PROGRAMS IS generally not funded.

BUDGET DETAIL

A. Tutoring Services

400 hours @ $25.00/hr for certified tutors	$10,000.00
TOTAL ALL CATEGORIES	**$10,000.00**

ATTACHMENT 2

Chamizal Neighborhood Weed and Seed Site Map