

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

DEPARTMENT: Library

AGENDA DATE: July 7, 2009 Consent Agenda

CONTACT PERSON/PHONE: CAROL BREY-CASIANO (543-5406)

DISTRICT(S) AFFECTED: All Districts

SUBJECT: Resolution

Resolution authorizing the Mayor to sign an Interlocal Service Agreement between the City of El Paso, on behalf of the El Paso Public Library, and the Ysleta del Sur Pueblo, Tribal Empowerment Department ("Provider") to provide an Intern at any branch of the El Paso Public Library through the Provider's involvement in the Workforce Investment Act of 1998, at no cost to the City.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

The proposed Interlocal Service Agreement will place an Intern at El Paso Public Library facilities through a program sponsored by the Ysleta del Sur Pueblo Tribal Empowerment Department. This Intern will learn to provide basic library services and programs for a period not to exceed one year. This program is funded through the Workforce Investment Act of 1998, at no cost to the City.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

No.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

No cost to City.

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

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

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

DEPARTMENT HEAD: Carol Brey-Casiano
(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:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:
That the Mayor be authorized to sign an Interlocal Service Agreement between the City of El Paso, on behalf of the El Paso Public Library, and the Ysleta del Sur Pueblo, Tribal Empowerment Department ("Provider") to provide an Intern at any branch of the El Paso Public Library through the Provider's involvement in the Workforce Investment Act of 1998, at no cost to the City.

(All Districts).

ADOPTED THIS _____ day of _____ 2009.

CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Kristen L. Choi
Assistant City Attorney

APPROVED AS TO CONTENT:



Carol Brey-Casiano
Director, El Paso Public Library

STATE OF TEXAS

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INTERLOCAL SERVICE AGREEMENT

COUNTY OF EL PASO

This Service Agreement (hereinafter "Agreement") is entered into on this the _____ day of _____, 2009, by and between the City of El Paso, a home rule municipal corporation (the "CITY") and Ysleta del Sur Pueblo, Tribal Empowerment Department ("PROVIDER").

WHEREAS, the CITY provides library services to the citizens of El Paso through the El Paso Public Library (the "Department") at any branch of the El Paso Public Library; and

WHEREAS, PROVIDER is the administering agency of a WIA, Workforce Investment Act of 1998, program funded under Title 1 of Public Law 105-220, Section 166. As such it is bound by the Federal Rules and regulations governing implementation of the ACT. The objectives of the program are to employ and increase the future employability of economically disadvantaged Native American Indians (the "Participants"), to help coordinate and improve existing approaches in solving the employment problems of the Participants. The primary activities of the program are to provide meaningful work experience and employment; and

WHEREAS, PROVIDER desires to provide a Participants in the WIA Program to intern at any El Paso Public Library facility (the "Worksite") at no cost to the CITY; and

WHEREAS, the Mayor and City Council recognize that the Program would serve the public purpose and governmental purpose of providing library services to the citizens of El Paso and find that the value of the Program is equal to the value of the City's office resources that will be made available for use under this Agreement.

NOW, THEREFORE, THE CITY AND PROVIDER HEREBY ENTER INTO THIS SERVICE AGREEMENT UNDER THE FOLLOWING TERMS AND CONDITIONS:

1.0 CONTRACTUAL RELATIONSHIP

1.1 The parties to this Agreement are independent contractors. Except as may be expressly and unambiguously provided in this Agreement, no partnership or joint venture is intended to be created by this Agreement, nor any principal-agent or employer-employee relationship between the parties or any of their officers, employees, agents, participants or representatives.

1.1.1 As an independent contractor, PROVIDER understands and agrees that it will be responsible for its respective acts or omissions, and the CITY shall in no way be responsible as an employer to PROVIDER'S officers, employees, agents or representatives who perform any service in connection with this Agreement.

1.1.2 As an independent contractor, the CITY understands and agrees that it will be responsible for its respective acts or omissions, and PROVIDER shall in no way be responsible

as an employer to the CITY's officers, employees, agents or representatives who perform any service in connection with this Agreement.

1.2 PROVIDER acknowledges and agrees that it does not have, and will not attempt to assert, the authority to make commitments for or to bind the CITY to any obligation other than the obligations set forth in this Agreement. The CITY also acknowledges and agrees that it does not have, and will not attempt to assert, the authority to make commitments for or to bind PROVIDER to any obligation other than the obligations set forth in this Agreement.

2.0 SCOPE OF SERVICES

2.1 PROVIDER shall assure that Participants have successfully completed all training and met all of the CITY's provisions prior to beginning volunteer work at the Worksite. If CITY determines that any Participant cannot or will not meet the needs of the job, CITY must contact PROVIDER to communicate this information as soon as possible.

2.2. The primary activity under this agreement is well-supervised work experience. This activity is provided by CITY in coordination with the PROVIDER. Supervision of participants is the responsibility of the CITY and is extremely important to the experience and training of each participant.

2.3 The CITY is responsible:

- 2.3.1 To provide adequate training and instruction in assigned duties and responsibilities;
- 2.3.2 To be responsible for orientation to the Worksite and to individual duties as the Participants may need in consultation with the PROVIDER;
- 2.3.3 To provide adequate supervision of the Participants in the performance of the duties assigned;
- 2.3.4 To provide Participants with safety handbooks;
- 2.3.5 To provide adequate equipment and/or materials necessary for the performance of the participants' duties;
- 2.3.6 To provide sufficient duties to occupy the Participants during Program hours;
- 2.3.7 To provide a list of all the job descriptions and duties to be performed by participants;
- 2.3.8 To provide an objective evaluation of the Participants' work performance stating Participants' strengths and areas that need improvement by the Participants' supervisor as requested by the Work Program;
- 2.3.9 To comply with federal, state, and local child labor laws;
- 2.3.10 To assure that the Participants do not exceed authorized working hours;
- 2.3.11 To assure that the Participants' time is accurately recorded daily;
- 2.3.12 To assure that time will not be recorded for unexcused absences, unworked hours or recreation, leaves, holidays; and
- 2.3.13 To ensure timesheets are signed and submitted to the Work Program in a timely manner;

2.3.14 To submit bi-weekly evaluations stating Participants' strengths and areas of weakness that need to be targeted and improved.

2.4 The PROVIDER is responsible for the following duties:

2.4.1 To recruit, interview and select the Participants before being enrolled or referred to the CITY for placement;

2.4.2 To provide on-site orientation to Participants prior to placement at the Worksite and at other times as deemed necessary by the parties;

2.4.3 To provide training and build skills capacities through resume, interview and dress for success workshops, Financial Education training and Nation Building to meet CITY's expectations and, if required by CITY, provide additional training in areas that need improvement;

2.4.4 To perform on-site visits as needed to review and evaluate Worksite activities and to provide technical assistance and counseling as deemed necessary by the parties;

2.4.5 To provide the Worksite personnel with all the necessary forms that need to be completed for the Participants. This includes timesheets and any other documentation that the Program may require. PROVIDER will also provide on-site instruction to the Worksite personnel in the preparation of the forms, if requested by the CITY;

2.4.6 To ensure that the requirements of this agreement, all federal laws and regulations, and state and local laws and policies are adhered to;

2.4.7 PROVIDER shall be solely responsible for the Participants on the job duties and for any injuries to the Participants;

2.4.8 To inform and assure the Participants of their equal, fair and just treatment under the Civil Rights Acts of 1964.

3.0 ADDITIONAL PROVISIONS

3.1 The parties agree to the following General Provisions:

3.1.1 The parties agree that this Agreement may be amended at any time in writing by concurrence of the parties hereto;

3.1.2 This agreement may be terminated at any time by mutual consent. In addition either party to this agreement may terminate for any reason by giving thirty (30) days written notice to the other party;

3.1.3 The parties agree that modifications can not be made unless both parties agree in writing;

3.1.4 The parties agree that the CITY will not be responsible for transportation for participants;

3.1.5 The parties agree that the CITY will not be responsible for meals;

3.1.6 The parties agree that the CITY will not be responsible for other out-of-pocket expenses;

3.1.7 The parties agree that the CITY and/or PROVIDER may request the removal of a participant at any time for any reason;

- 3.1.8 The parties agree that a Participant may withdraw from the Program upon providing one weeks advance notice to the CITY and PROVIDER;
- 3.1.9 The parties agree that at the discretion of the Worksite supervisor, nonpaid breaks may be taken by the Participants;
- 3.1.10 The parties agree that the Participants' work schedule will not exceed 20 hours a week;
- 3.1.11 The CITY will not request, assign, nor permit participants to conduct or engage in religious, sectarian, or political activity or instruction;
- 3.1.12 The parties agree not to request, nor permit Participants to use their personal vehicles nor any worksite vehicles for work related matter.

4.0 TERM. This Agreement shall be effective from July 8, 2009 through August 31, 2012.

5.0 GOVERNMENTAL FUNCTION AND IMMUNITY.

5.1 Governmental Function. The parties expressly agree that, in all things relating to this Agreement, the CITY enters into this Agreement for the purpose of performing a governmental function and is performing a governmental function, as defined by the Texas Tort Claims Act. Neither party waives any immunity under the Texas Tort Claims Act. The parties further expressly agree that every act or omission of the CITY, which in any way pertains to or arises out of this Agreement, falls within the definition of governmental function.

5.2 Sovereign Immunity. The CITY reserves, and does not waive, its rights of sovereign immunity and similar rights and do not waive its rights under the Texas Tort Claims Act. No provision of this Agreement that imposes an obligation or restriction on the CITY not permitted by applicable law shall be enforceable.

6.0 GENERAL PROVISIONS

6.1 Comply With All Laws. Parties shall perform all services under this Agreement in accordance with all applicable local, state, and federal laws and regulations.

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

6.3 Assignment. The services to be provided under this Agreement by PROVIDER cannot be assigned or delegated without the prior written consent of the CITY.

6.4 Complete Agreement. This Agreement, together with the Attachment(s) attached hereto, constitutes the entire agreement between the parties relating to the terms and conditions of the Agreement. The parties expressly acknowledge and warrant that 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 Agreement confers no rights on any person(s) or business entity(s) that is not a party hereto. This Agreement shall not be construed against or unfavorably

to any party because of such party's involvement in the preparation or drafting of this Agreement.

6.5 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Texas, along with any applicable provisions of the federal law, the City Charter and/or any ordinance of the City of El Paso.

6.6 Severability. All agreements and covenants contained in this Agreement are severable. Should any term or provision of this Agreement be declared invalid by a court of competent jurisdiction, the parties intend that all other terms and provisions of this Agreement should be valid and binding and have full force and effect as if the invalid portion had not been included.

6.7 Notices. All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received via personal delivery with signed receipt or via United States Postal Service post office or certified mail, return receipt requested addressed to the respective other party at the address provided below or at such other address as the receiving party may have theretofore prescribed by written notice to the sending party.

The initial addresses of the parties, which one party may change by giving written notice of its changed address to the other party, are as follows:

CITY: City of El Paso
Office of the City Manager
Two Civic Center Plaza, 10th Floor
El Paso, Texas 79901-1196

COPY TO: City of El Paso
El Paso Public Library, Director
Two Civic Center Plaza, 6th Floor
El Paso, Texas 79901-1196

PROVIDER: Ysleta del Sur Pueblo
Tribal Empowerment Department
11100 Santos Sanchez
El Paso, Texas 79927

6.8 Warranty of Capacity to Execute Contract. The person signing this Agreement on behalf of PROVIDER warrants that he/she has the authority to do so and to bind PROVIDER to this Agreement and all the terms and conditions contained herein.

Each person signing below represents that he or she has read this Agreement in its entirety; understands its terms; and agrees on behalf of such party that such party will be bound by those terms.

Executed this _____ day of _____, 2009.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

YSLETA DEL SUR PUEBLO



Luis Nunez
Tribal Empowerment Program Director

APPROVED AS TO FORM:



Kristen L. Choi
Assistant City Attorney

APPROVED AS TO CONTENT:



Carol Brey-Casiano, Director
El Paso Public Library