

**CITY OF EL PASO, TEXAS
REQUEST FOR COUNCIL ACTION (RCA)**

DEPARTMENT: Community and Human Development
AGENDA DATE: 09/22/09
CONTACT PERSON/PHONE: William Lilly, Director (541-4643)
DISTRICT(S) AFFECTED: 1, 3, 6, 7, and 8

SUBJECT:

Discussion and action on a resolution approving the September 2009 - August 2010 (FY10) U.S. Department of Housing and Urban Development Empowerment Zone Planning and Implementation Grant Funding Awards; and, authorizing the City Manager to execute standard agreements, with the approval of the City Attorney's Office; and, sign all documents related to the implementation and performance of the activities contained in the Empowerment Zone Strategic Plan.

BACKGROUND / DISCUSSION:

In May 2009, the City received authorization from the U.S. Department of Housing and Urban Development to implement activities noted in the City's Empowerment Zone 2008 Strategic Plan. The geographic boundaries of the El Paso Empowerment Zone include sections of Districts 1, 3, 6, 7 and 8.

As part of the Request for Proposal process initiated June 16, 2009, the Empowerment Zone Advisory board approved its recommended funding awards (**Exhibit A**), in consensus with Community Development staff's recommendation. The funding awards include activities in the categories of (1) Small Business Technical Assistance, (2) Small Business Incubator, (3) Bilingual Workforce Development, (4) Childcare, (5) Business Loans, (6) Façade Improvement Program and (7) Publicizing Tax Incentives to Businesses. The attached chart (**Exhibit A**) includes all projects that were reviewed by the EZ Advisory Board and Staff, whether or not they were recommended for funding. Please note that each of the projects is numbered for easy identification and that a blank space has been added at the far right of each project for your individual funding award recommendations. Attached for City Council reference is the standard contract to be executed by awardees (**Exhibit B**).

An appeal has been submitted by the Greater El Paso Chamber of Commerce (**Exhibit C**). This appeal was reviewed and not granted by the EZ Advisory Board on August 24, 2009.

An appeal was received by El Puente Community Development Corporation (**Exhibit D**). This appeal was reviewed and not granted by the EZ Advisory Board on September 9, 2009. City staff has reviewed the submitted proposal and its budget for compliance with federal regulations. The timing of the \$400,000 proposed award pre-dated the recent developments with Mercado Mayapan (El Puente's proposed EZ project location) closing its doors on September 3 and reopening on September 4 with volunteer labor. With the consideration of El Puente CDC as a high-risk grantee, the City may require documentation that demonstrates El Puente's financial capacity to fully operate the proposed project for at least three months prior to initial reimbursement.

The total EZ program budget amount of \$4,850,000 includes the following:

\$2,950,000	Empowerment Zone Grant funds awarded by the Department of Housing and Urban Development through July 2, 2010; and,
\$150,000	El Paso Hispanic Chamber of Commerce – Small Business Tech Assistance
97,290	Project Vida – Small Business Technical Assistance
400,000	El Puente Community Development Corporation – Small Business Incubator
507,031	La Fe Preparatory School, Inc. – Small Business Incubator
330,000	Excel Learning Center – Bilingual Workforce Development
450,000	Young Women's Christian Association of El Paso, TX (YWCA) – Childcare

800,000 City's Economic Development Department
\$400,000 – Micro Business Loans
\$300,000 – Façade Improvement Program
\$100,000 – Publicizing Tax Incentives to Businesses
215,679 Unencumbered Funds

\$1,900,000 Collected program income (as of August 1, 2009) – Restricted for Revolving Loan fund loan disbursements – Managed by City's Economic Development Department

Revolving Loan Fund program income will be revolved into new loan disbursements in accordance with federal regulations.

On September 9, 2009, the EZ Advisory Board recommended that unencumbered funds be awarded to existing EZ subgrantees that are outperforming their proposed outputs and can demonstrate expending the funds on eligible activities and allowable expenditures by the end of the grant implementation period.

PRIOR COUNCIL ACTION:

The El Paso City Council approved the 2008 Strategic Plan on June 10, 2008.

AMOUNT AND SOURCE OF FUNDING:

The El Paso Empowerment Zone Program will be funded by the El Paso Empowerment Zone Planning and Implementation Grant and administered by the Community and Human Development Department. The \$2,950,000 program funds are budgeted in account number 71150075-11002-71000-G71EZECEPEZ with the received \$1,900,000 EZ Revolving Loan Fund revenue deposited in account numbers 71150075-11002-71000-G71EZ BOF.

BOARD / COMMISSION ACTION:

On August 12, 2009, the Empowerment Zone Advisory Board unanimously recommended approval of the FY10 proposed funding awards. On August 24, 2009, the Empowerment Zone Advisory Board recommended Greater El Paso Chamber of Commerce with \$0 funding. On September 9, 2009, the Empowerment Zone Advisory Board unanimously recommended El Puente Community Development Corporation at \$400,000 funding.

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

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

DEPARTMENT HEAD: _____

cc: Deborah G. Hamlyn, Deputy City Manager, Quality of Life

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

RESOLUTION

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

The El Paso Empowerment Zone Grant funding awards for the period of September 2009 – August 2010 (FY10), attached hereto as Exhibit “A”, are hereby approved; and

That the City Manager be authorized to sign Letters of Support, Certifications of Local Government Approval, and Certifications of Consistency with the Strategic Plan required by HUD or the States of Texas for grant applications; and

That the City Manager be authorized to sign all standard contracts and documents with the agencies approved for funding in the FY10 grant budget related to the implementation and performance of the activities contained in the Empowerment Zone Strategic Plan. The City Manager is authorized herein to sign amendments to such contracts which add to or reduce funding when such amendments are consensual, including de-obligation of funds by mutual termination; and

That the City Manager be authorized to sign all Environmental Assessments, Requests for Release of Funds, Certifications, and Performance Reports required by the U.S. Department of Housing and Urban Development for activities covered by the Strategic Plan.

ADOPTED this _____ day of _____ 2009.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

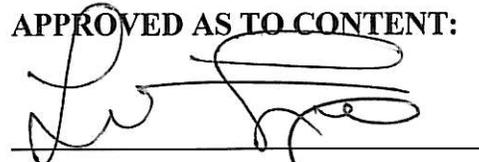
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:



William L. Lilly, Director
Community and Human Development

2009 Empowerment Zone RFP Applicants
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EXHIBIT A

Representative District Codes:

(1) Westside – Lilly, (2) West-Central – Byrd, (3) East-Central – Acosta, (4) Northeast – Robinson, (5) Eastside – Quintana, (6) Lower Valley – Holguin, (7) East-Valley – Ortega, (8) South-West – O'Rourke

Applicant	<u>Project Name – Description</u>	District	Funding Request	EZAB Proposed Awards	City Staff Proposed Awards	Council's Proposed Awards
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1. SMALL BUSINESS TECHNICAL ASSISTANCE – \$247,290

<p>1. El Paso Hispanic Chamber of Commerce 2401 E. Missouri El Paso, TX 79903 Contact: Terri Reed Phone: 915.566.4066 treed@ephcc.org</p>	<p><u>Entrepreneurial Technical Assistance Centers</u> - The Entrepreneurial Technical Assistance Centers will provide professional, bilingual business development advice and guidance to entrepreneurs located in the Empowerment Zone. Services include planning, development and implementation of a specialized work plan for businesses in every phase of start-up.</p>	<p>EZ 1,3,6 7,8</p>	<p>\$150,000</p>	<p>\$150,000</p>	<p>\$150,000</p>	
<p>2. Project Vida Community Development Corporation 3607 Rivera Avenue El Paso, TX 79901 Contact: Rosario Fernandez Phone: 915.533.7057 x 221 marofeva@yahoo.com</p>	<p><u>Empowerment Zone Microenterprise Technical Assistance</u> - Project Vida Community Development Corporation shall provide a wide variety of technical assistance and training to 35 start-up and existing microenterprise businesses, who qualify, within the El Paso Empowerment Zone resulting in the retention of 33 jobs and the creation of 17 jobs.</p>	<p>EZ 1,3,6 7,8</p>	<p>\$100,290</p>	<p>\$97,290</p>	<p>\$97,290</p>	
<p>3. The Greater El Paso Chamber of Commerce 10 Civic Center Plaza El Paso, TX 79901 Contact: Minda Villarreal Phone: 915.629.6714 mvillarreal@elpaso.org</p>	<p><u>The EZ Way</u> – Customized and comprehensive training and technical assistance for businesses in the Empowerment Zone. The goal is to serve 130 qualifying organizations over a 10-month period through: (1) on-site comprehensive organizational assessments; (2) business plan development and implementation; and (3) one-on-one technical assistance.</p>	<p>Central EZ 1,3,8</p>	<p>\$345,225</p>	<p>\$0</p>	<p>\$0</p>	

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EXHIBIT A

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Applicant	Project Name – Description	District	Funding Request	EZAB Proposed Awards	City Staff Proposed Awards	Council's Proposed Awards
4. El Puente Community Development Corporation 2101 Myrtle Avenue El Paso, TX 79901 Contact: Cindy Arnold Phone: 915.478.0823 cazelpaso@aol.com	Mercado Mayapan: Business and Jobs Incubator - El Puente seeks \$649,008 to provide, through Mercado Mayapan--A Mexican cultural heritage incubator located at 2101 Myrtle Avenue--outreach, in-take, on-site business assistance and workforce training to at least 75 EZ residents in order to establish/grow 27 businesses, create 57 jobs and retain 38 jobs by June 30, 2010.	EZ 1,3,6 7,8	\$649,008	Considered in Small Business Incubator Funding Category	Considered in Small Business Incubator Funding Category	
Please note: El Puente has submitted one proposal applying for multiple applicable funding categories (as per City Council June 10, 2008 Resolution) – Small Business Technical Assistance, Small Business Incubator and Bilingual Workforce Development. Application considered in Small Business Incubator Category.						

2. SMALL BUSINESS INCUBATOR – \$739,478

5. Boys & Girls Clubs of El Paso 4624 Delta El Paso, TX 79905 Contact: Arturo Jaime Phone: 915.532.7410 ajaime@bgcelpaso.org	"Teach 2 Fish" - "Teach 2 Fish" is a mixed use, small business incubator located at the Boys & Girls Clubs of El Paso Delta Unit that provides Empowerment Zone residents with facilities, resources, technical training and assistance to help launch their own business. This program includes a youth component.	EZ 1,3,6 7,8	\$500,000	\$0	\$0	
6. La Fe Preparatory School, Inc. 721 S. Ochoa Street El Paso, TX 79901 Contact: Amy O'Rourke Phone: 915.533.4566 aorourke@lafeprep.org	La Fe Commercial Kitchen Business Venture (CKBV) - The CKBV is an entrepreneurial program providing kitchen facilities and business development skills to non-compliant/unlicensed food vendors, catering companies, and event planning businesses struggling to become self-sustaining giving them access to the commercial kitchen, print shop, and office space.	EZ 1,3,6 7,8	\$339,478	\$339,478	\$339,478	

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Applicant	<u>Project Name – Description</u>	District	Funding Request	EZAB Proposed Awards	City Staff Proposed Awards	Council's Proposed Awards
7. El Puente Community Development Corporation 2101 Myrtle Avenue El Paso, TX 79901 Contact: Cindy Arnold Phone: 915.478.0823 cazelpaso@aol.com	<u>Mercado Mayapan: Business and Jobs Incubator</u> - El Puente seeks \$649,008 to provide, through Mercado Mayapan--A Mexican cultural heritage incubator located at 2101 Myrtle Avenue--outreach, in-take, on-site business assistance and workforce training to at least 75 EZ residents in order to establish/grow 27 businesses, create 57 jobs and retain 38 jobs by June 30, 2010.	EZ 1,3,6 7,8	\$649,008	\$400,000	\$400,000	
Please note: El Puente has submitted one proposal applying for multiple applicable funding categories (as per City Council June 10, 2008 Resolution) – Small Business Technical Assistance, Small Business Incubator and Bilingual Workforce Development. Application considered in Small Business Incubator Category.						

3. BILINGUAL WORKFORCE DEVELOPMENT – \$497,553

8. Ethos Educational Services LLC, dba Excel Learning Center 1220 Lomaland Ste G-6 El Paso, TX 79907 Contact: Salvador Rodriguez Jr. Phone: 915.590.5415 srodriguez@ethos-edu.org	<u>Bilingual Workforce Development</u> - Excel will provide short-term bilingual job training (workplace literacy/work readiness skills) to 110 eligible EZ residents in: Customer Service, Nursing Assistant, Medical Administrative Assistant, or Computer Literacy. Upon completion of training, we will work with all graduates to assist them with placement services to secure a fulfilling job.	EZ 1,3,6 7,8	\$330,000	\$330,000	\$330,000	
9. La Fe Preparatory School, Inc. 616 E. Father Rahm El Paso, TX 79901 Contact: Amy O'Rourke Phone: 915.533.4566 aorourke@lafeprep.org	<u>La Fe Adult Workforce Development Program</u> - The La Fe AWD is a bilingual workforce development program that will provide residents with opportunities to receive bilingual training in culinary arts, customer service, and business/event management. Participants will also have access to GED and ESL classes.	Central EZ 1,3,8	\$195,000	\$167,553	\$167,553	
Note: Application will be reclassified to be combined into one contract with La Fe's small business incubator project with additional funds.						

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EXHIBIT A

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Applicant	<u>Project Name – Description</u>	District	Funding Request	EZAB Proposed Awards	City Staff Proposed Awards	Council's Proposed Awards
10. El Puente Community Development Corporation 2101 Myrtle Avenue El Paso, TX 79901 Contact: Cindy Arnold Phone: 915.478.0823 cazelpaso@aol.com	<u>Mercado Mayapan: Business and Jobs Incubator</u> - El Puente seeks \$649,008 to provide, through Mercado Mayapan--A Mexican cultural heritage incubator located at 2101 Myrtle Avenue--outreach, in-take, on-site business assistance and workforce training to at least 75 EZ residents in order to establish/grow 27 businesses, create 57 jobs and retain 38 jobs by June 30, 2010.	EZ 1,3,6 7,8	\$649,008	Considered in Small Business Incubator Funding Category	Considered in Small Business Incubator Funding Category	
Please note: El Puente has submitted one proposal applying for multiple applicable funding categories (as per City Council June 10, 2008 Resolution) – Small Business Technical Assistance, Small Business Incubator and Bilingual Workforce Development. Application considered in Small Business Incubator Category.						

4. CHILDCARE - \$450,000

11. Young Women's Christian Associaton of El Paso, Texas 1918 Texas Avenue El Paso, TX 79901 Contact: Eli Pabon Phone: 915.533.2311 e.pabon@ywcaelpaso.org	<u>Child Care for Empowerment Zone Families Project</u> - The Childcare for Empowerment Zone (EZ) Families in El Paso project will provide gap childcare funding to EZ families so that parents can seek, obtain or maintain employment or job training. In addition, this funding will offer a pathway to access permanent state childcare subsidies for EZ parents.	EZ 1,3,6 7,8	\$450,000	\$450,000	\$450,000	
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5. OUTREACH AND EDUCATION OF ECONOMIC OPPORTUNITIES – \$0

Although issued within the Request for Proposal Process, there were no eligible applicants. The Empowerment Zone Advisory Board is recommending the originally budgeted \$250,000 to be transferred to cover award recommendations in the Small Business Incubator and Bilingual Workforce Development Funding Categories.

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EXHIBIT A

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Applicant	<u>Project Name – Description</u>	District	Funding Request	EZAB Proposed Awards	City Staff Proposed Awards	Council's Proposed Awards
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6. SMALL BUSINESS LOANS - \$1,900,000

12. City of El Paso – Economic Development Department Two Civic Center Plaza – 2 nd Floor El Paso, TX 79901 Contact: Kathy Dodson Phone: 915.541.4670	Small Business Loans – This program category will provide individual loans ranging from \$10,000 to \$500,000 (3% fixed rate). A forgivable feature is proposed at 20 percent of principal (cap:\$20,000) with timely repayment. The loan program is funded with existing Revolving Loan Fund collections.	EZ 1,3,6 7,8	\$1,900,000	\$1,900,000	\$1,900,000	
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7. MICRO BUSINESS LOANS - \$400,000

13. City of El Paso – Economic Development Department Two Civic Center Plaza – 2 nd Floor El Paso, TX 79901 Contact: Kathy Dodson Phone: 915.541.4670	Micro Loans – This program category will provide individual micro-business loans under \$5,000 and at 3% fixed rate. A forgivable feature is proposed at 50 percent of principal with timely repayment. Eligible borrowers must be Empowerment Zone residents.	EZ 1,3,6 7,8	\$400,000	\$400,000	\$400,000	
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8. COMMERCIAL FAÇADE IMPROVEMENT PROGRAM - \$300,000

14. City of El Paso – Economic Development Department Two Civic Center Plaza – 2 nd Floor El Paso, TX 79901 Contact: Kathy Dodson Phone: 915.541.4670	EZ Commercial Façade Improvement Program – This program category will match façade improvement projects up to \$24,998 at a \$1:\$1 applicant:grant match for a total project cost totaling no more than \$50,000.	EZ 1,3,6 7,8	\$300,000	\$300,000	\$300,000	
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EXHIBIT A

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Applicant	<u>Project Name – Description</u>	District	Funding Request	EZAB Proposed Awards	City Staff Proposed Awards	Council's Proposed Awards
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9. PUBLICIZING TAX INCENTIVES TO BUSINESSES - \$100,000

15. City of El Paso – Economic Development Department Two Civic Center Plaza – 2 nd Floor El Paso, TX 79901 Contact: Kathy Dodson Phone: 915.541.4670	Publicizing Tax Incentives to Businesses – This program category will pay City identified qualified tax preparers \$100 for each qualified EZ Wage Credit filing prepared for an eligible Empowerment Zone business. (The proposed project is pending HUD approval.)	EZ 1,3,6 7,8	\$100,000	\$100,000	\$100,000	
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FY10 FUNDING AWARDS GRAND TOTAL \$4,634,321
 FY10 UNENCUMBERED FUNDS - 215,679
 FY10 TOTAL AWARD BUDGET \$4,850,000

INELIGIBLE PROJECTS

Applicant	<u>Project Name – Description</u>	Explanation
16. El Puente Community Development Corporation 2101 Myrtle Avenue El Paso, TX 79901 Contact: Cindy Arnold Phone: 915.478.0823 cazelpaso@aol.com Please note: El Puente has submitted one proposal applying for multiple applicable funding categories (as per City Council June 10, 2008 Resolution) – Small Business Technical Assistance, Small Business Incubator and Bilingual Workforce Development.	Mercado Mayapan: Business and Jobs Incubator - El Puente seeks \$649,008 to provide, through Mercado Mayapan--A Mexican cultural heritage incubator located at 2101 Myrtle Avenue--outreach, in-take, on-site business assistance and workforce training to at least 75 EZ residents in order to establish/grow 27 businesses, create 57 jobs and retain 38 jobs by June 30, 2010.	Does not meet intent of Outreach and Education of Economic Opportunities Funding Category. Outreach limited to applicant's programs and incubator businesses. Outreach and Education was to be provided for all EZ residents of a wide range of economic opportunity programming. The proposal remains eligible for other funding categories.

STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONTRACT

I. CONTRACT PROVISIONS

SECTION A. PARTIES TO CONTRACT

This Contract is made and entered into by and between the CITY OF EL PASO, TEXAS, a home-rule municipal corporation, hereinafter referred to as "CITY", and , a corporation organized and existing under the laws of the State of Texas, hereinafter referred to as "GRANTEE." The parties hereto are bound to the mutual obligations and to the performance and accomplishment of the tasks described herein.

SECTION B. CONTRACT PERIOD

This Contract shall commence on September 8, 2009 and shall terminate on June 1, 2010, unless otherwise specifically provided by the terms of this Contract. At the CITY's discretion, the Contract may be extended for an additional thirty (30) day period.

SECTION C. GRANTEE PERFORMANCE

1. GRANTEE shall conduct, in a satisfactory manner as determined by CITY, the U.S. Department of Housing and Urban Development, hereinafter referred to as "HUD," and the office of the Governor, hereinafter referred to as "State Agency," an Empowerment Zone Project, hereinafter referred to as the "EZ Project" or "Program" pursuant to Subchapter U of the Internal Revenue Code of 1986, as amended by Section 952 of the Taxpayer Relief Act of 1997 (26 U.S.C. 1391 through 1397F, et seq.), hereinafter referred to as the "Act"; and the applicable provisions of Title 24 CFR Part 598. GRANTEE shall perform all activities in accordance with the terms of the Project Scope, hereinafter referred to as Attachment 1, attached and incorporated herein; the Budget hereinafter referred to as Attachment 2, attached and incorporated herein; the Certifications hereinafter referred to as Attachment 6 and Addendum A, attached and incorporated herein; the applicable Laws and Regulations, incorporated by reference; and with all other terms, provisions and requirements set forth in this Contract.
2. GRANTEE agrees and understands that the EZ Project must satisfy at least one of the resident benefit standards set forth in Title 24 CFR Section 598.610 and at least one of the project or activity criteria set forth in Title 24 CFR Section 598.615.
3. Nothing contained in this Contract authorizes the GRANTEE to use EZ grant funds expended for the EZ Project for acquisition, housing, or construction activities.

SECTION D. CITY'S OBLIGATIONS

1. Measures of Payment

In consideration of full and satisfactory performance of the activities referred to in Section C of this Contract, CITY agrees to release to GRANTEE certain EZ grant funds in accordance with all applicable rules, regulations and guidelines for actual and reasonable costs incurred by GRANTEE during the term of this Contract for performances rendered by GRANTEE, as specified in Section C and otherwise herein, subject to the limitations set forth in this Section.

a. It is expressly understood and agreed by the parties hereto that CITY's obligations under this Section are contingent upon the actual receipt of adequate federal funds to meet the CITY's obligations under this Contract. CITY anticipates that it will receive adequate federal funds to meet CITY 's obligations under the Contract, however, if adequate funds are not available to make payments under this Contract, CITY shall notify GRANTEE in writing as soon as practicable after such fact is determined. CITY shall thereupon terminate this Contract and will not be liable for failure to make payments to GRANTEE under this Contract.

2. Excess Payments

GRANTEE shall refund to CITY any sum of money which has been paid to GRANTEE by CITY, which CITY determines has resulted in overpayment to GRANTEE, or which CITY determines has not been spent by GRANTEE strictly in accordance with the terms of this Contract. Such refund shall be made by GRANTEE to CITY within ten (10) working days after CITY requests such refund.

3. Limitation on Payment Obligation

Notwithstanding any other provision of this Contract, the total of all payments and other obligations incurred by CITY under this Contract shall not exceed the sum of \$ _____, which will be paid by CITY, subject to all terms and conditions, as stated herein, from only one funding source: Empowerment Zone funds granted by HUD, referred to as "EZ grant funds" in this Contract. The CITY shall in no way be held liable to pay any sums to GRANTEE under the terms of this Contract, except as specified in this Contract, and from the source as specified directly above, and shall in no way be held liable to GRANTEE to pay any such sums to GRANTEE from general city revenue, or any other source, except as specified directly above.

4. Environmental Review

GRANTEE understands and agrees that no EZ grant funds will be released and no reimbursable costs can be incurred until the CITY has conducted an environmental review as required under Title 24 CFR Part 50. Notwithstanding any provision in this Contract, the parties hereto agree and acknowledge that the commitment of EZ grant funds is contingent upon satisfactory completion of the environmental review and receipt by CITY of a release of funds from HUD under Title 24 CFR Part 50.

SECTION E. COMPENSATION, REPORTING, AND PROGRAM INCOME

1. GRANTEE shall perform its services within the monetary limits contained in Attachment 2, entitled "Budget," attached hereto and incorporated by reference herein for all purposes. In no event shall compensation to the GRANTEE exceed the lesser of GRANTEE's costs attributable to the work performed, or the monetary limits described in the Project Scope, 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, GRANTEE may make transfers of funds between or among budget categories, as contained in Attachment 2, 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 EZ Project funded under this Contract; and
- c. GRANTEE submits a Budget Revision Report to CITY, Attachment 4, hereto, simultaneously with the submission of GRANTEE's Reimbursement Request Report, Attachment 3A, hereto. Budget revisions must contain a complete explanation and justifications for the changes made, and are subject to the approval of the Director.

The CITY will, at least quarterly, review the financial status of the GRANTEE's EZ Project under this Contract. Upon determination that unexpended funds are present, the Contract budget may be adjusted to remove such amounts at the discretion of the Director.

2. The CITY agrees to reimburse the GRANTEE on a monthly basis for the costs of service provided pursuant to this Contract. Reimbursements will follow receipt of a reimbursement request that must be submitted to the CITY by the 20th day of each month, or a reasonable time thereafter if the Director determines that an extension is warranted. Failure to provide this information by the due date may be treated by the CITY as a breach of this Contract. Only those costs which are allowable under the terms of this Contract and the approved Budget shall be reimbursed. Budget line items (Attachment 2) represent the maximum amount which may be billed under each line item. A lesser amount may be billed by the GRANTEE.

All reimbursement requests submitted by the GRANTEE must be supported and accompanied by valid invoices or other supporting documentation of financial liability acceptable to the CITY. All line items reported and requested for reimbursement on Attachment 3A must reconcile with the corresponding line item in the GRANTEE's general ledger accounts, on a current basis, and with year to date balances. Accounting records required to be maintained in the GRANTEE's files in relation to a requisition for payment under this Contract include, but are not limited to:

- a. Balance Sheet (both monthly and year to date);
- b. Income Statement;
- c. General Ledger;
- d. Payroll Check Register, as applicable; and

EXHIBIT B

- e. Spreadsheet that details the amounts requested for reimbursement, which are summarized on Attachment 3A.
3. The following documents may be required to be submitted on a semiannual basis to the CITY's Financial Services Department if the GRANTEE does not expend over \$500,000 in Federal Funds in the fiscal year. If the GRANTEE expends over \$500,000 in Federal Funds, the audit requirement under Section H of this Contract will supersede the semiannual report.
- a. A combined income statement reporting all resources and uses of funds, and an income statement.
 - b. Detailed General Ledger for the period. Individual general ledger transactions must be in agreement with line item amounts requested for payment during the period.
4. GRANTEE shall provide the CITY the following verified monthly reports:
- Attachment 3A: Reimbursement Request Report- An accurate financial account on the use of the funds requested for reimbursement under this Contract. This report is to be submitted each month, whether or not the GRANTEE has incurred expenses;
- Attachment 3B: Employee Monthly Time Report- An accounting of the hours worked by GRANTEE's personnel being paid with the funds provided in this Contract, as applicable;
- Attachment 3C: Service Recipient Eligibility Form- To be completed for each client as eligibility documentation, to be submitted to CITY along with address verification;
- Attachment 3D: Performance Report- A report of the Project's monthly service activities, to include: progress and number of EZ residents/businesses served and the scope of services for each output measurement as per the project scope. This report is to be submitted each month, whether or not the GRANTEE has incurred expenses;
- Attachment 4: Budget Revision Report- A request for alteration of budget line items; (This report should only be submitted when a transfer is needed.); and
- Attachment 5: Outcome Report- An end of the term report detailing final project outcomes.

Additional informative materials may be attached to the above reports by GRANTEE.

EXHIBIT B

5. GRANTEE shall present quarterly oral project status reports to the Empowerment Zone (EZ) Advisory Board. Presentation will be based on the previous three monthly Performance Reports submitted. Failure to participate in the above requirement may be treated by the CITY as a breach of this Contract.

6. GRANTEE further understands that any payment or contribution by beneficiaries for services supported or subsidized by this Contract shall be used for payment of operating costs of the EZ Project. Revenue remaining after payment of all Project expenses shall be considered Program Income subject to all the requirements of this Contract and Title 24 CFR Sections 84.24 and 85.25.

The CITY shall be entitled to a pro rata share of Program Income generated proportionate to the contribution of EZ grant funds to the GRANTEE's overall Project budget.

Program Income shall only be used by GRANTEE to provide payment for eligible Project expenses for services in accordance with this Contract, unless otherwise instructed in writing by the CITY. The CITY's share of Program Income shall be reported as it is generated and shall be shown on the monthly Reimbursement Request Report as a deduction from the GRANTEE's reimbursable expenses for the month.

SECTION F. SUSPENSION OR TERMINATION

1. In accordance with Title 24 CFR Section 85.43, the CITY may suspend or terminate this Contract should GRANTEE materially fail to comply with the terms of this Contract. The CITY shall give the GRANTEE ten (10) days written notice of the suspension or termination with the understanding that all services being performed under this Contract shall cease upon the date specified in such notice. GRANTEE shall invoice CITY for all services performed prior to the date specified in such notice.

The CITY and GRANTEE may also, in accordance with Title 24 CFR Section 85.44, terminate this Contract for convenience.

2. If GRANTEE breaches any term or condition of this Contract, or if any change of circumstances renders it unlikely that the GRANTEE will perform the services required hereunder, the CITY may take one or more of the following actions:

- a. Withhold further cash payments, either pending corrective action by the GRANTEE, or permanently, if there is inadequate or no corrective action by the GRANTEE;
- b. Disallow costs for all or part of the activity or action not in compliance;
- c. Wholly or partly suspend or terminate this Contract;
- d. Withhold further Contracts to the GRANTEE; or
- e. Pursue any other remedies that are available at law or equity.

SECTION G. REVERSION OF ASSETS

Upon the expiration or termination of this Contract, the GRANTEE shall promptly transfer to CITY: (1) any EZ grant funds on hand at the time of the expiration or

EXHIBIT B

termination; (2) all accounts receivable attributable to use of EZ grant funds; (3) a share of unexpended Program Income generated during the term of the Contract proportionate to the contribution of EZ grant funds to the GRANTEE's overall Project budget; (4) any claims against third parties based upon EZ grant funds; (5) HUD's compensatory share related to retained or disposed of EZ-funded equipment, supplies, and other expendable property, per requirements in Title 24 CFR Parts 84 and 85, and (6) any funds which CITY determines have not been expended in accordance with the terms of this Contract. Such refund shall be made by GRANTEE to CITY within ten (10) working days after CITY requests such refund.

SECTION H. FORM, ACCESS TO AND RETENTION OF RECORDS

1. GRANTEE shall prepare and maintain files, books, and records in accordance with all applicable HUD requirements, including OMB Circulars Nos. A-87, A-110, A-122, and A-133, as applicable; and Title 24 CFR Parts 84 and 85 as they pertain to costs incurred, audits, program income, administration, activities and functions, recordkeeping, and all of the relevant matters contained in said publications and supplements. These records shall be maintained for a period of three (3) years after the termination or expiration of this Contract.

2. The CITY, State Agency, HUD and/or their designees shall have a right of access to make copies of and a right to audit all of the GRANTEE's files, books and records which are deemed pertinent to the performance of this Contract, as determined solely in the reasonable exercise of the CITY's, the State Agency's, HUD's and/or their designee's discretion. Copying and auditing will be performed at a reasonable time and place, such as during the GRANTEE's usual business hours, and at GRANTEE's principal place of business or office. This right shall continue for three (3) years after termination or expiration of this Contract. The CITY, State Agency, HUD and/or their designees may additionally request the copying, mailing and/or electronic transmission of records by GRANTEE.

3. GRANTEE agrees that at all times prior to and after termination of this Contract, all papers, books, files, correspondence and records relative to the performance of services under this Contract are owned by and are the sole property of the CITY. The GRANTEE will hold and possess the papers, books, files, correspondence and records as the property of the CITY and shall relinquish them to the CITY upon its request during the term of this Contract and at any time during the three (3) years immediately following the term of this Contract. GRANTEE will not be required to relinquish those documents which are deemed confidential by Federal, State, or local law.

4. GRANTEE shall conduct, through an independent auditor acceptable to the CITY, a single audit of its activities hereunder when GRANTEE expends \$500,000 or more in a year in Federal awards, in compliance with OMB Circular No. A-133. GRANTEE's auditor shall prepare a "Certificate of Audit" to be provided to the CITY. Such Certificate of Audit, along with the corresponding management letter and GRANTEE's responses thereto, must be submitted within nine months after the end of the GRANTEE's fiscal year. Failure of GRANTEE to provide the required Certificate of

EXHIBIT B

Audit to the CITY within the time period required herein shall constitute a breach of this Contract and cause for termination of this Contract by the CITY.

5. If GRANTEE expends less than \$500,000 in a year in Federal awards, no single audit of GRANTEE's activities hereunder shall be required by the CITY, and the funds received under this Contract shall not be utilized for this purpose. However, GRANTEE must still have an external audit of their financial statements conducted to ensure ability to demonstrate fiscal responsibility to the CITY.

SECTION I. MONITORING

1. CITY reserves the right on its behalf, and on behalf of State Agency, and on behalf of HUD to perform, or have their designees perform, a periodic on-site and desk audit monitoring of the GRANTEE's compliance with the provisions of this Contract. The monitoring shall be conducted in a reasonable time, place and manner by the CITY. The GRANTEE 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, will perform periodic fiscal and programmatic monitoring reviews, including a review of the audit conducted by the GRANTEE. The CITY, State Agency, HUD, and/or their designees may request the copying, mailing, and/or electronic transmission of GRANTEE's records in connection with an on-site or desk audit monitoring.

2. Monitoring reviews will include a written report to the GRANTEE documenting findings and concerns that will require a written response to the CITY. An acceptable response must be received by the CITY within 30 days from the GRANTEE's receipt of the monitoring report or audit review letter, or otherwise future payments will be withheld under this Contract.

3. Failure of the GRANTEE to take all actions necessary to resolve and close monitoring or audit findings within 60 days of receipt of the monitoring report or audit review letter are considered a breach of this Contract and cause for termination of this Contract by CITY.

The Director shall have the discretion to extend the 60-day period for reasons the Director may judge to be extenuating circumstances.

SECTION J. COMPLIANCE WITH LAWS

1. GRANTEE understands that it will be reimbursed under this Contract with EZ funds received from HUD and agrees to comply and cause its sub-grantees/sub-contractors to comply with all applicable local, State, and Federal Laws, EZ regulations, and all other regulations of HUD and other federal agencies, including but not limited to: OMB Circulars A-87, A-110, A-122, and A-133 and Title 24 CFR Part 85, including but not limited to, Title 24 CFR 85.36; the procurement requirements of Title 24 CFR Sections 84.40 - 84.48; the regulations at Title 24 CFR Part 87, related to lobbying; the restrictions on participation by ineligible, debarred or suspended persons or entities as

EXHIBIT B

described in Executive Order 12549 and at Title 24 CFR Section 5.105(c); the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4201 et seq.), as applicable, and the implementing regulations at Title 49 CFR Part 24 (Relocation). If GRANTEE is a for-profit corporation, the OMB Circular Nos. A-87 and A-133 shall also apply. GRANTEE shall refer to the publication entitled "Guidance for Auditors to use when examining EZ Award Recipients and Sub-Recipients," incorporated herein by reference, in relation to the audit requirements addressed herein, which publication has been and will be made available by CITY for inspection upon reasonable request by GRANTEE. Any reference in this Contract to an OMB Circular, standard, or publication of any governmental agency, or to the Act, the Code, or any statute, regulation, rule, ordinance, or law of any kind, shall be construed to include any amendments thereto and any successors thereto.

2. GRANTEE understands and agrees that:

a. 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.

b. 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 subparagraph 2.a. of this Section.

c. 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 subparagraph 2.a. of this Section if paid for with appropriated funds.

3. Disposition of any acquired property after the term of the Contract, or any change in use of the property during the term of the Contract is subject to government-wide regulations governing real property disposition, as set forth in Title 24 CFR Parts 84 and 85.

SECTION K. NON-RELIGIOUS ACTIVITIES

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

EXHIBIT B

2. 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.

3. 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.

4. 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.

5. Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. To the extent allowed by applicable Code sections for the Program, and to the extent allowed by this Contract, Program funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under the applicable Code sections for this Program. Where a structure is used for both eligible and inherently religious activities, Program funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to Program funds under the Code. Sanctuaries, chapels, or other rooms that a Program-funded religious congregation uses as its principal place of worship, however, are ineligible for Program-funded improvements.

6. If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, these requirements apply to all of the commingled funds.

II. ADDITIONAL GRANTEE OBLIGATIONS**SECTION A. INDEMNIFICATIONS AND INSURANCE**

1. **THE CITY SHALL NOT BE SUBJECT TO ANY OBLIGATIONS OR LIABILITIES OF THE GRANTEE INCURRED IN THE PERFORMANCE OF THIS CONTRACT. THE GRANTEE, AND/OR ITS INSURER, EXPRESSLY AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, DEMANDS, LIABILITIES AND OBLIGATIONS OF ANY KIND AND NATURE, INCLUDING INJURY OR DEATH OR PROPERTY DAMAGE MADE UPON THE CITY, INCIDENT TO, OR ARISING OUT OF, OR IN CONNECTION WITH THE GRANTEE'S PERFORMANCE UNDER THIS CONTRACT, INCURRED DUE TO GRANTEE'S NEGLIGENCE, ANY OF GRANTEE'S NEGLIGENT ACTS, OR ANY OMISSION TO ACT, ANY BREACH OF CONTRACT, OR ANY ACTIONS OF THE GRANTEE OUTSIDE THE SCOPE OF THIS CONTRACT, INCLUDING ANY ACT OR OMISSION OR NEGLIGENCE BY THE GRANTEE'S AGENTS, EMPLOYEES OR SUBGRANTEES WHILE THIS CONTRACT EXISTS, ALL WITHOUT HOWEVER WAIVING ANY GOVERNMENT IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW. THIS INDEMNITY SHALL COVER ATTORNEY'S FEES, COURT COSTS, WITNESS EXPENSES, AND ALL OTHER RELATED COSTS, INCLUDING AWARDS AND SETTLEMENTS AND ANY INTEREST THEREON.**

2. The GRANTEE agrees to maintain for the life of this Contract, a liability insurance policy in the minimum amounts of \$250,000.00 for each person and \$500,000.00 for each single occurrence covering bodily injury or death and \$100,000.00 for each single occurrence of damage to or destruction of property. Such insurance shall name the CITY as an additional insured on the policy with regard to all suits, actions, demands, claims and liabilities arising out of, occasioned by or relating to this Contract or the activities carried out hereunder. It shall also contain a provision that it may not be canceled or lapse/non-renewed without 30-days prior written notice to CITY. GRANTEE shall produce a copy of its liability insurance policy, which shall be completed by an agent authorized to bind the named underwriter(s) to the coverage limits, and terms and provisions shown thereon, incorporating the above requirements, to CITY prior to the effective date of this Contract.

a. CITY SHALL HAVE NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT UNTIL SUCH CERTIFICATE HAS BEEN DELIVERED TO THE DIRECTOR, AND NO OFFICER OR EMPLOYEE SHALL HAVE AUTHORITY TO WAIVE THIS REQUIREMENT.

b. The CITY reserves the right to review the insurance requirements of this section during the effective term of this Contract and to adjust insurance coverages and their limits when deemed necessary and prudent based upon changes in statutory law,

EXHIBIT B

court decisions, or the claims history of the industry, if applicable, as well as the claims history of the GRANTEE.

c. CITY shall be entitled, upon request, and without expense, to receive copies of the policies and all endorsements thereto and may make any reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties thereto or the underwriter of any such policies). Upon such request by CITY, GRANTEE shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof. GRANTEE remains responsible for procuring any other types of insurance not listed above, but required by law, necessary for performing its duties.

d. Notwithstanding any suspension or termination hereof, GRANTEE shall not be relieved of any liability to CITY for damages or indemnification due to CITY by virtue of breach of this Contract by GRANTEE by virtue of this Section. CITY may withhold payments to GRANTEE until such time as the exact amount of damages due to the CITY from GRANTEE is agreed upon or is otherwise determined.

SECTION B. INDEPENDENT CONTRACTOR

CITY and GRANTEE understand that GRANTEE is an independent contractor and that no term or provision hereof or act of GRANTEE in performance of this Contract shall be construed as making GRANTEE an agent or employee of the CITY. All officers and employees of GRANTEE shall be solely responsible to GRANTEE, and the CITY shall not have any authority, responsibility, or liability with respect thereto.

SECTION C. AUTHORITY TO CONTRACT

GRANTEE represents and warrants that the person executing this Contract and all documents related hereto has the authority to commit the GRANTEE to the obligations, financial and otherwise, required by this contract.

SECTION D. DISCRIMINATION PROHIBITED

1. 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), religion, 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 the GRANTEE 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.

EXHIBIT B

2. Furthermore, GRANTEE shall comply with all the equal opportunity requirements in Title 24 CFR Section 5.105; the requirements of Executive Order 11246 (Equal Opportunity) and the implementing regulations at Title 41 CFR Chapter 60; and the requirements attached to this Contract and incorporated by reference as Attachment 6.

3. GRANTEE must file the Assurance required under City Ordinance 9779, prohibiting discrimination against disabled persons. Failure to do so in any manner which impairs the quality of performance hereunder, or affects the administration of the funds provided hereunder, shall constitute a breach of this Contract.

SECTION E. CONFLICT OF INTEREST

1. GRANTEE covenants that during the term of this Contract, GRANTEE, its associates or employees shall have no interest and shall not acquire any interest, direct or indirect, which will conflict in any manner with the performance of the services under this Contract. GRANTEE understands that none of its paid personnel shall be employees of the CITY or have any Contract relationship with the CITY.

2. In the procurement of supplies, equipment, construction and services by GRANTEE the conflict of interest provisions in Title 24 CFR Sections 85.36 and 84.42 and OMB Circular A-110 respectively, shall apply.

3. The conflict of interest provisions of paragraph 1 above apply to any person who is an employee, agent consultant, officer, or elected official or appointed official of the CITY, or any designated public agencies, or sub-recipients (GRANTEE and sub-grantees, if any) which are receiving EZ grant funds.

SECTION F. HATCH ACT

Neither the funds advanced pursuant to this Contract, nor any personnel that may be employed by the GRANTEE 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 G. 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 GRANTEE or to any benefits arising there from.

SECTION H. POLITICAL AND LOBBYING ACTIVITIES PROHIBITED

1. 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

EXHIBIT B

Congress of the United States of America, the Legislature of the State of Texas, or the City Council of the City of El Paso.

2. Employees of GRANTEE connected with any activity which is financed in whole or in part by funds provided to GRANTEE under this Contract may not during the term of this Contract:

- a. Use their official position or influence to affect the outcome of an election or nomination;
- b. Solicit contributions for political purposes; or
- c. Take an active part in political management or in political campaigns.

3. GRANTEE 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 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. GRANTEE shall require the language of the Certification and disclosure be included in all subcontracts and that all sub-grantees shall certify and disclose accordingly.

SECTION I. GRANTEE'S COMPOSITION

GRANTEE shall notify the CITY in writing within thirty (30) days in the event of any change in GRANTEE's ownership, organization, control, and management and non-profit or tax status. GRANTEE shall periodically, at least annually, submit to the CITY a list of its current membership and board of directors with their appropriate titles.

SECTION J. ASSIGNMENT

GRANTEE may not assign or otherwise transfer this Contract either as to obligations or benefit without the prior written consent of the CITY.

SECTION K. REQUIRED DOCUMENTATION

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

SECTION L. WARRANTY

GRANTEE represents that the information furnished to the CITY, upon which CITY relied to make this grant, is correct and true.

SECTION M. LIABILITY

GRANTEE shall be liable to the CITY for the full amount of any funds received pursuant to the terms of this Contract, which GRANTEE knowingly accepts or disburses in violation of the terms and conditions herein.

SECTION N. ACKNOWLEDGMENT IN PRINTED MATERIALS

GRANTEE is encouraged to acknowledge the CITY for its support of the provision of services under this Contract in all appropriate printed materials. However, the CITY reserves the right to approve, in whole or in part, the form of such acknowledgments that the GRANTEE proposes to include in any printed materials.

SECTION O. COPYRIGHTS AND PATENTS

1. If this Contract results in a book or other copyrightable material, the CITY's approval must be obtained to copyright the work. Additionally, on behalf of HUD, the CITY reserves a royalty fee along with a nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for government purposes.

2. Any discovery or invention arising out of or developed in the course of the services aided by this Contract shall be promptly and fully reported to the CITY for a determination as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.

III. GENERAL PROVISIONS

SECTION A. TEXAS CORPORATION AND VENUE

GRANTEE warrants that it is incorporated in and otherwise entitled to do business in the State of Texas as a [non-profit/profit] corporation. If GRANTEE is doing business under an assumed name, a copy of the "Assumed Name Certificate" filed with the El Paso County Clerk must be provided to the CITY. This Contract is entered into in the City and County of El Paso, Texas and shall be governed and construed under the laws of Texas. Venue shall be in El Paso County, Texas.

SECTION B. WAIVER

Failure by either party on one or more occasions to exercise one or more of its rights hereunder shall not be construed as a waiver of such right or rights, and rights granted hereunder are in addition to those available under law and equity.

EXHIBIT B

SECTION C. SEVERABILITY

All agreements, covenants or provisions contained herein are severable, and in the event any of them shall be held to be invalid by any competent court, this Contract shall be interpreted as though such invalid agreement, covenant or provision was not contained herein.

SECTION D. CAPTIONS

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 E. 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

GRANTEE:

El Paso, TX 799

SECTION F. ENTIRE CONTRACT

This Contract reflects the final, complete and exclusive understandings of the parties hereto, and may not be waived, altered or modified except by written agreement of both parties.

THE CITY OF EL PASO

Joyce Wilson
City Manager

[Signatures Continue on Following Page]

EXHIBIT B

APPROVED AS TO FORM

APPROVED AS TO CONTENT

Marie A. Taylor
Assistant City Attorney

William Lilly, Director
Community and Human Development

GRANTEE

By: _____

(Printed name/Title)

(The foregoing representative of GRANTEE expressly represents that execution of this Contract has been lawfully authorized by the GRANTEE.)

**ATTACHMENT 1:
PROJECT SCOPE**



THE
GREATER
EL PASO
CHAMBER OF
COMMERCE
SINCE 1899

The Voice for El Paso Business

EXHIBIT C

August 17, 2009

Ms. Isela Robison

El Paso Empowerment Zone Coordinator
Community Development
City of El Paso
2 Civic Center Plaza
El Paso, TX 79901

Re: Empowerment Zone Grant for Technical Assistance

Dear Ms. Robison,

We first want to thank you for all of the hard work that you and staff undertook in your effort to engage the many community organizations on behalf of the Empowerment Zone and this grant proposal.

Needless to say, our Business Development team was deeply disappointed and quite frankly, surprised when they were informed this past Wednesday night, that although our score placed us solidly in second position, we were denied part of the award. Despite the recommendations by you and your EZ team to award the contract to The Greater Chamber of Commerce, the final recommendation of the panel was to award to the third place submission.

Part of our difficulty in accepting this outcome is reflected in the following criteria that we submitted as part of our proposal:

The Greater Chamber's proposal had the highest community impact including:

- Outreach to 350 individuals/businesses
- Surveying of 350 businesses/individuals in the EZ
- 150 EZ clients served
- Continuity of service, support, and evaluation that the Chamber will provide to the clients after the EZ-way program is completed.

The Chamber's access to unique pool of resources that we can connect the client to, including:

- The only Business Individual Development Account savings program (2:1 savings ratio) and;
- Group training by credentialed experts at a discounted price
- The Chamber's history and expertise in providing technical support demonstrated through the:
 - Facilitation of \$153.2 million through the One Stop Business Resource Center;
 - the Disbursement of \$150,000 in Empowerment Zone grants; and
 - Leveraging of \$2.3 million to the Dedicated Commuter Lane.

EXHIBIT C

The Chamber is leveraging 67% of the funding request (\$232,546) of in-kind support. This represents 40% of total project cost.

The uniqueness of the bilingual inter-agency team-approach incorporates the expertise of 8 agencies within the One Stop Business Resource Center. The Chamber's application is the strongest one in this category.

The Chamber is the only agency that would effectively serve Census Tract 39.03 (Kennedy Area) due to transportation issues encountered by that population having to travel to other areas of the empowerment zone. (This point was made by City staff to the board during the meeting)

Perhaps the most troubling aspects of the recommendations of the selection committee are some of the personal comments made by Ms. Andrade seemingly to justify the recommendation itself. The request for proposal requires the submitter to address assistance to the clients to develop business plans. Yet, the committee dismissed the importance of this criterion stating that many of these small business owners don't speak English so how could we help them write a business plan. Isn't this alone a contradiction of the stipulated requirement? Another statement that was made was that our name, "The Greater El Paso Chamber of Commerce", will be intimidating to the target client audience. And finally, her comment to Mr. Ortiz, not for him to worry about the Greater Chamber because we will survive this loss, is particularly troubling. What is the point of assigning a scoring process if the committee intended to ignore the scores and select based on personal preferences? The Greater Chamber's strength and capability should be considered an asset to the selection process, not a detriment and certainly not a justifiable reason to ignore the committee's own evaluation of our capabilities.

We recommend that the Empowerment Zone also review and consider potential conflicts of interest for the following reasons: One of the board members (Ms Zuvanich) is a client of the SBDC, one of our partners in the submission. Should she have been recused from the selection process? At least one of the other submitters is leveraging funding from the City of El Paso.

It is for these reasons that we respectfully request the Empowerment Zone selection committee formally reconsider its recommendations for the grant awards.

Sincerely,



Richard E. Dayoub
President and CEO

El Puente Community Development Corporation

EXHIBIT D

2000 Texas, El Paso, TX 79901

Phone: 915- 533-7378 Fax: 915-544-3740 elpuente@mujerobrera.org

September 1, 2009

William Lilly, Director
Community and Human Development Department

Isela Robison, Coordinator
Empowerment Zone
City of El Paso
2 Civic Center Plaza, 2nd Floor
El Paso, TX 79901-1196

Dear Mr. Lilly and Ms. Robison:

Based on our meeting with the both of you this morning, it is our understanding that you intend to recommend to City Council that El Puente's application be funded at \$400,000, rather than the requested \$649,000 or the approximately \$615,000 funding level voted upon by the Advisory Committee on August 24, 2009.

As a result, El Puente Community Development Corporation requests a hearing before the Empowerment Zone Advisory Committee to appeal the funding recommendation that the staff is planning to present to City Council. We ask that this hearing be held prior to the submission of the Empowerment Zone item for placement on the City Council agenda.

Sincerely,

Cindy Arnold

Cindy Arnold
Executive Director
915-478-0823
cazelpaso@aol.com