

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

**DEPARTMENT:** Planning and Economic Development

**AGENDA DATE:** September 28, 2010

**CONTACT PERSON/PHONE:** Kathryn Dodson, PhD, Director 541-4670

**DISTRICT(S) AFFECTED:** ALL

**SUBJECT:**

A resolution authorizing the City Manager to sign an extension to the agreement for New Markets Tax Credits consulting services with the National Development Council. [Planning & Economic Development, Kathryn Dodson, Ph.D. (915) 541-4670]

**BACKGROUND/DISCUSSION:**

This agreement with the National Development Council is to extend the current contract for one year to assist the City in utilizing NMTC and other federal economic development incentives in El Paso. New Markets Tax Credits (NMTC) can be utilized to finance business and real estate projects in qualifying low-income census tracts. El Paso has already applied for a \$110 million allocation and the National Development Council's services are needed to assist in NMTC and other federal incentives programs. The National Development Council will assist the City in the event it receives an allocation of tax credits and to assist in applying for a new allocation in 2011. To date no project in El Paso has received NMTC funding despite \$26 billion in tax credit authority awarded over the past seven years.

**PRIOR COUNCIL ACTION:**

Yes, in September 2009, City Council approved the initial contract for New Markets Tax Credits consulting services with the National Development Council.

**AMOUNT AND SOURCE OF FUNDING:**

Funds rolled over into Outside Contracts:  
Account: 502215  
Fund: 01101  
Dept ID: 72010268

**BOARD/COMMISSION ACTION:**

NA

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

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** \_\_\_\_\_

(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 City Manager be authorized to exercise the City's option to extend the New Markets Tax Credits Consulting Services Agreement (Solicitation No. 2009-260R) by and between the City of El Paso and National Council for Community Development d/b/a National Development Council and to sign an Extension Agreement.

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

THE CITY OF EL PASO

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

ATTEST:

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

APPROVED AS TO FORM:

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

APPROVED AS TO CONTENT:

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

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

**EXTENSION OF CONSULTING SERVICES  
AGREEMENT**

**THIS** Extension of Consulting Services Agreement ("Extension") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010 by and between the City of El Paso ("City") and National Council for Community Development d/b/a National Development Council ("Contractor").

**WHEREAS**, on September 29, 2009 the City and the Contractor entered into a New Markets Tax Credits Consulting Services Agreement ("Agreement"), in the award of Solicitation No. 2009-260R, and said Agreement expires on September 28, 2010; and

**WHEREAS**, the Agreement contains one (1) one-year option to extend, subject appropriation of sufficient funds for additional services and approval by City Council; and

**WHEREAS**, the City desires to exercise its option to extend the Agreement; and

**WHEREAS**, the City has requested that the Contractor amend its scope of work; and

**WHEREAS**, the Contractor has agreed to amend its scope of services in return for consideration stated below.

**NOW, THEREFORE**, the City and the Contractor agree as follows:

1. **Extension of Term.** The Agreement is extended for a one year time period commencing September 29, 2010 and terminating on September 28, 2011.
2. **Additional Services.** The Scope of Services attached to this Agreement is hereby amended, attached herein as Exhibit "A".
3. **Consideration.** Payment for the above-described services shall be NINETY THOUSAND AND 00/100THS DOLLARS (\$90,000.00) representing the comprehensive flat fee for all services to be performed during the extension period, payable under the same terms and considerations provided for in Section II of the Agreement.

Except as expressly modified herein, all other terms and conditions of the Agreement dated September 29, 2009, remain in full force and effect.

*(Signature Page to follow)*

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**EXTENSION OF CONSULTING SERVICES  
AGREEMENT**

*(Signature Page)*

**IN WITNESS WHEREOF**, this Extension of Consulting Services Agreement has been duly executed by the parties hereto as of the date above written.

**CITY OF EL PASO**

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

APPROVED AS TO FORM:

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

APPROVED AS TO CONTENT:

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

**CONTRACTOR:  
NATIONAL COUNCIL FOR  
COMMUNITY DEVELOPMENT D/B/A  
NATIONAL DEVELOPMENT COUNCIL**

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

## **EXHIBIT A SCOPE OF SERVICES**

To promote redevelopment within the community, the City of El Paso is undertaking a variety of community and economic development projects and seeks to implement a New Markets Tax Credit (NMTC) and other innovative financing programs. Contractor will provide technical assistance to the City in achieving its Economic Development goals. In an effort to position the City in a most competitive position for submittals to the Community Development Financial Institutions (CDFI) Fund and other funding sources, Contractor will also assist in reviewing, structuring and financing these projects during pre-development and project development.

This Scope of Services describes the assistance available under this Agreement during the specified contract period. The City and NDC by mutual agreement in writing may revise this Scope. The City will direct Contractor's activities and determine which services are rendered by Contractor and payment by the City evidences the City's acceptance of the assistance provided under this Agreement. The Contractor will notify the City if it requests work that is not included in the comprehensive fee for services under this Agreement. The assistance offered includes:

1. Pending reauthorization of the NMTC program and the outcome of 2010 awards, assist the city in evaluating feasibility and suitability of the previously established New Market Tax Credit municipal model program. This includes:
  - Assessment and/or refinement of El Paso Development Fund (EPDF) Community Development Entity (CDE) business plan including management, policies and procedures, compliance, etc.
  - vetting of NMTC project pipeline and assistance in evaluating, structuring and underwriting NMTC projects.
  - If appropriate, submittal of application for 2011NMTC allocation application and related submittals.
2. Assist the City in maintaining a comprehensive list of potential local Economic Development projects (including NMTC projects) and strategies to capture economic development dollars to aid in financing projects and creating jobs to include:
  - Meetings with City officials, appropriate organizations and individuals as selected by City staff, to identify properties deemed critical to the redevelopment of each target geography
  - Meetings with representatives of appropriate financing incentive programs.
3. Assist City staff in identifying Economic Development projects that can have a catalytic effect on its redevelopment goals with appropriate financing incentives.
4. Review and evaluation of projects being considered by the City for community and economic development assistance. This may include, as directed:
  - evaluating sponsor/developer experience and capacity
  - financial review and structuring
  - review of appraisals, cost assumptions, capital budgets, operating statements, marketing data and other funding commitments
  - advising on tax credit equity sources, requirements and structuring
  - identifying other funding sources when required
  - assisting with development issues during pre-development and development

- advising on the structure of loan documents and development agreements
  - advising on program regulation issues
  - a recommendation on the possible issuance of an Invitation for Application for two categories: commercial real estate development and small business loans
5. Assist the City in communicating with and working with developers including, but not limited to assisting sponsors of local projects (at the City's direction) to access NMTCs and other Economic Development financing tools, including but not limited to RTC, LIHTC, EDA, HUD Section 108, etc.
6. Contractor may, at the City's direction and under certain conditions, provide financing and development assistance through its non-profit development affiliate NDC Housing and Economic Development Corporation (HEDC) and its economic development bank Grow America Fund (GAF). HEDC and GAF can provide:
- equity for historic rehabilitation and low income housing tax credit projects through the NDC Corporate Equity Fund, L.P., or other sources
  - HEDC can act as non-profit sponsor/developer for certain affordable housing, public purpose and economic development projects
  - small business loans for cities participating in GAF
  - Equity for eligible businesses and commercial development through New Markets Tax Credit funds (the US Treasury continues to allocate NMTC's to entities to leverage investment into eligible projects on a project-by-project basis. (Contractor participates in the NMTC program and intends to apply for an additional allocation this year. Contractor has committed to using its NMTC allocation in client communities).
7. Assist developers and City Staff in issues related to the structuring and syndication of Rehabilitation Tax Credit projects to satisfy the requirements of the Internal Revenue Code, including Sections 47 and 38 and further Sections 46 and 48 governing qualified expenditures. Contractor is familiar with the RTC requirements, and has assisted with numerous historic tax credit transactions. Depending on a project's sources of capital, and potential tax-exempt use, and possible related-entity leases and operating agreements, there may be a number of additional structuring issues that need to be carefully addressed in order to satisfy the requirements of the tax code and the ultimate tax credit investor. Contractor will assist the City in this process, including:
- Coordinating with the City staff, legal counsel and accountant
  - Identifying potential investors
  - Negotiating an agreement with an investor for the RTC
  - Coordinating with other third parties as needed
  - Structuring the transaction
    - Determining the legal entities needed for the tax credit partnership
    - Structuring the transaction to maximize tax credit equity for the project
    - Determining necessary leases, agreements, and other documents for the tax credit transaction
  - Reviewing financial information provided to the investor:

- Cost budgets
- Debt schedules (if applicable)
- Income pro forma

To accomplish the Community Development goals articulated herein the City will provide a lead staff person to assist in the coordination of all activities including, but not limited to :

- Identification and convening of stakeholders. Stakeholders may include, but are not limited to:
  - Developers
  - Property Owners
  - Business Owners
  - Bankers
  - Existing local CDE's
  - City Staff and Elected Officials
  - Neighborhood Groups
- Identification and access to Planning and other documents necessary for understanding existing local Community Development goals, initiatives and incentives.
- Identification and access to other data relevant to project evaluation including but not limited to: city owned property available for redevelopment, census tract data, previously conducted market, feasibility and environmental studies

Activity	Milestone Deadline
<b>Scenario 1: El Paso Development Fund (EPDF) receives an allocation from the 2010 round of New Markets Tax Credits:</b>	
Developer & Investor training session; meet with City staff for updates and planning	October 2010
Meet with City staff for updates and planning; meet with potential developers or potential NMTC investors	November 2010
CDFI / U.S. Treasury anticipates 2010 round of NMTC allocations to be announced.	December 2010
Special board meeting:	January 2011
Identify projects to be considered for immediate funding	
Meetings with developers for projects that may be ready for funding	February 2011
Board meeting to select initial projects for funding	March 2011
Work on application for 2011 round – work on compliance issues from 2010 allocation	April 2011
Work on application for 2011 allocation round	May 2011
Board meeting – selection of pipeline projects	June 2011
Close on initial projects	July 2011
Work on application for 2011 allocation round; vet projects for funding	August 2011
Board meeting – selection of pipeline projects	September 2011

Activity	Milestone Deadline
<b>Scenario 2: El Paso Development Fund does not receive an allocation from the 2010 round of New Markets Tax Credits</b>	
Developer & Investor training session; meet with City staff for updates and planning	October 2010
Meet with City staff for updates and planning; meet with potential developers or potential NMTC investors	November 2010
Meet with local education institutions and low income home builders	December 2010
NMTC awareness campaign – new request review	January 2011
Review city projects for applicability in 2011 allocation request	February 2011
Prepare allocation request (application) with local investors and funders	March 2011
Continue preparation of allocation request incorporating list of projects	April 2011
Continue preparation of allocation requests adding city data and finalize	May 2011
Submit allocation request	June 2011
	July 2011
	August 2011
	September 2011