

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

**DEPARTMENT:** OMB

**AGENDA DATE:** October 20, 2009

**CONTACT PERSON/PHONE:** David Almonte - 541-4777

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

Approve an amendment to the Inter-local Agreement with the University of Texas at El Paso extending the term of the Inter-local Agreement dated February 3, 2009 for a graduate certificate program in Urban and Regional Planning for one additional year. The terms of the agreement including compensation and scope of services remain unchanged.

**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 University of Texas at El Paso (UTEP) will provide a thirty session training and development program for City of El Paso staff in Urban and Regional Planning that will greatly enhance staff capabilities and skills in the Development Services Department. An executive development program will also be conducted for City Staff enabling them to better serve the community of El Paso, Texas. This program will assist the City in the development of staff and provide a more effective process within the Planning Division of the Development Services Department.

**PRIOR COUNCIL ACTION:**

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

Yes, City Council approved the Inter-local agreement appropriating up to \$75,000 on February 3, 2009 for the graduate certificate program in Urban and Regional Planning.

**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?**

The City of El Paso allocated funding for this program in the seminar and continuing education account budgeted in Non-Departmental.  
99010273-01101-504412

**BOARD / COMMISSION ACTION:**

**Enter appropriate comments or N/A**

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\*\*\*\*\*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 sign an Amendment to Interlocal Agreement by and between the City of El Paso and the University of Texas at El Paso to extend the term of Interlocal Agreement dated February 3, 2009 to enable employees of the City to obtain a graduate certificate in Urban and Regional Planning, and that the City Manager be authorized to extend the Agreement for additional one (1) year terms provided that the compensation or scope of services remain unchanged.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

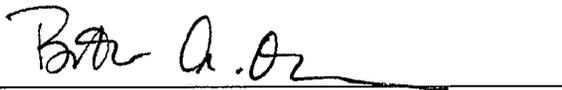
CITY OF EL PASO

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

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bertha A. Ontiveros  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
David Almonte, Director  
Office of Management and Budget



STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

FIRST AMENDMENT TO  
INTERLOCAL AGREEMENT

(Signature Page)

IN WITNESS WHEREOF, the parties have executed this First Amendment to Interlocal Agreement in the City of El Paso, Texas on the date first above written.

CITY OF EL PASO

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Joyce A. Wilson  
City Manager

ATTEST:

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Richarda Duffy Momsen  
City Clerk

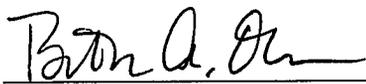
UNIVERSITY OF TEXAS AT EL PASO



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Diana Natalicio  
President

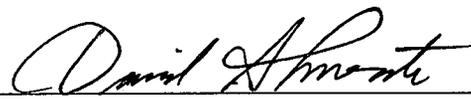
APPROVED AS TO FORM:



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Bertha A. Ontiveros  
Assistant City Attorney

APPROVED AS TO CONTENT:



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David Almonte, Director  
Office of Management and Budget

CITY CLERK DEPT.

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RESOLUTION

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT** the City Manager be authorized to sign an Interlocal Agreement by and between the City of El Paso and the University of Texas at El Paso in an amount not to exceed Seventy-Five Thousand and no/100 Dollars (\$75,000.00) for the University of Texas at El Paso to provide a graduate certificate program in Urban and Regional Planning to employees of the Development Services Department – Planning Division in order to enhance the employees knowledge and skills and the service quality and efficiency of the department staff, and that the City Manager may increase the number of City employee participants and pay additional compensation at the amounts set forth in the Agreement.

APPROVED this 3<sup>rd</sup> day of February, 2009.

CITY OF EL PASO

John F. Cook  
 John F. Cook  
 Mayor

ATTEST:

Richarda Duffy Mornsen  
 Richarda Duffy Mornsen  
 City Clerk

APPROVED AS TO FORM:

Bertha A. Ontiveros  
 Bertha A. Ontiveros  
 Assistant City Attorney

APPROVED AS TO CONTENT:

David Almonte  
 David Almonte, Director  
 Office of Management and Budget

STATE OF TEXAS )  
 ) INTERLOCAL AGREEMENT WITH  
 COUNTY OF EL PASO ) THE UNIVERSITY OF TEXAS AT EL PASO

This Interlocal Agreement with The University of Texas at El Paso (this "*Agreement*"), entered into this 3<sup>rd</sup> day of February, 2009, by and between the City of El Paso, (the "*City*"), a Texas Municipal Corporation, and The University of Texas at El Paso, a Texas institution of higher education ("*UTEP*").

**RECITALS:**

**WHEREAS**, the City's Development Services Department Planning Division ("*Planning Division*") provides planning, zoning and other urban planning functions for the City;

**WHEREAS**, in order to further develop and enhance the service quality and efficiency of the services provided by the Planning Division, the City desires to provide certain educational opportunities to the Planning Division employees to enhance their knowledge and skills in Urban and Regional Planning;

**WHEREAS**, UTEP offers a high quality education program that will enable City employees to obtain a certificate in Urban and Regional Planning and prepare City employees to take a certification exam offered by the American Institute of Certified Planners;

**WHEREAS**, the City has a policy to encourage an educated and skilled workforce that pays for a portion of an employee's tuition when an employee is pursuing a higher education degree;

**WHEREAS**, the City desires to retain UTEP, and UTEP desires to provide to the City at a City facility, a graduate certificate program in Urban and Regional Planning to certain City employees designed to enhance the services provided by the Planning Division;

**WHEREAS**, the Texas Interlocal Cooperation Act, TEXAS GOVERNMENT CODE, §§791.001, *et seq.*, allows local governments and political subdivisions of the state to contract among each other for governmental functions and services; and

**WHEREAS**, it is the intent of the parties that the functions and services to be performed pursuant to this Agreement constitute solely governmental functions and services.

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 CITY CLERK DEPT.

## AGREEMENT:

**NOW, THEREFORE**, in consideration of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. SCOPE OF SERVICES

UTEP hereby agrees that it will provide to designated City Planning Division employees a thirty (30) session, fifteen (15) semester credit hour Urban and Regional Planning Certificate program that consists of the courses further described in Exhibit A, Scope of Work. UTEP shall design and develop the curriculum, develop all educational materials, and provide to City employees successfully completing the program fifteen (15) credit hours towards each employee's Master's degree in Public Administration offered by UTEP. Services shall be provided at a City facility mutually designated by the City and UTEP.

2. TERM

The term of this Agreement shall begin February 3, 2009, and shall end December 31, 2009. The term of this Agreement may be extended upon the written approval of both parties.

3. COMPENSATION

The City hereby agrees to compensate UTEP and UTEP hereby agrees to be compensated in an amount not to exceed Seventy-Five Thousand Dollars (\$75,000.00) (the "**Compensation**") for the services provided pursuant to the terms of this Agreement and at the amounts per employee/participant set forth in Exhibit A, provided that the total amount of Compensation may be increased without further amendment by the amounts set forth in Exhibit A if City Manager increases the number of City employee participants and notifies UTEP in writing of such increase. Compensation shall be paid as follows: the first payment of \$20,000 shall be made on the week the course commences; the second payment of \$20,000 shall be made after the completion of the fifteenth session of the program and the final payment for the total amount due at the end of the 30<sup>th</sup> session (i.e. at the end of the course) based upon the number of City employee participants. The parties agree that the Compensation includes all expenses incurred by UTEP in its performance of this Agreement. UTEP agrees that at no time shall it make a claim against the City for more than the Compensation provided under the terms of this

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Agreement. Payment will be made to UTEP within thirty (30) days following submittal of invoices to the City.

4. CERTIFICATION

The CITY and UTEP hereby certify that the services to be provided by UTEP are necessary and essential activities that are properly within the statutory functions and programs of the respective state and local entities.

5. APPLICABLE LAWS

UTEP shall perform all services under this Agreement in accordance with all applicable local, state, and federal laws and regulations.

6. INDEPENDENT CONTRACTOR

Nothing herein shall be construed as creating a relationship of employer and employee between the parties hereto. The City shall not be subject to any obligations or liabilities of UTEP incurred in the performance of this Agreement unless otherwise herein authorized. Except to the extent expressly provided in this Agreement, neither of the parties has, and neither of the parties shall attempt to assert, the authority to make commitments for or to bind the other Party to any obligation.

7. ASSIGNMENT

The services to be provided under this Agreement are personal to UTEP and cannot be assigned or delegated without the prior written consent of the CITY.

8. TERMINATION

- (A) Either party may terminate this Agreement if the other is in default, upon five (5) days' written notice to the other party.
- (B) The CITY or UTEP may terminate this Agreement without cause upon thirty (30) days written notice to the other party.
- (C) Termination shall be without prejudice to any obligation by one Party to the other, which shall have accrued and owed prior thereto.

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9. NOTICES

Any notices required under this Agreement shall be sufficient if sent by Certified Mail, Return Receipt Requested, postage prepaid, to the City or UTEP at the following addresses:

CITY: Director, Office of Management and Budget  
City of El Paso  
Two Civic Center Plaza  
El Paso, Texas 79901-1196

UTEP: Dennis L. Soden, Ph.D.  
Institute for Policy and Economic Development  
University of Texas at El Paso  
El Paso, Texas 79968-0703

10. WAIVER

Action or inaction by either party regarding any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

11. DISCRIMINATION

- (A) *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, any programs or activity funded in whole or in part with funds made available to UTEP pursuant to the terms of this Agreement, or any written amendment hereto.
- (B) *Specific Discriminatory Actions Prohibited:* UTEP may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, creed, color, sex, national origin, age or disability, or having the effect of defeating or substantially impairing accomplishment of the objectives of the programs funded pursuant to this Agreement or any written amendment hereto with respect to individuals of a particular race, color, national origin, creed, sex, age or disability.

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12. FINAL AGREEMENT

This Agreement contains all commitments and agreements of the parties hereto, and no verbal or written commitment shall have any force or effect if not contained herein. This Agreement may not be amended unless reduced to writing and executed by authorized representative of both parties hereto.

13. VENUE

The parties hereto agree that this Agreement shall be enforceable in El Paso, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in El Paso County, Texas.

14. CONTRACT INTERPRETATION

In interpreting the various provisions of this Agreement in a court of law, any court having jurisdiction shall apply the laws of the State of Texas to interpret the terms and provisions in this Agreement.

15. SEVERABILITY

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected; and in lieu of each provision which is found to be illegal, invalid or unenforceable, there will be added as part of this Agreement a provision which preserves the intention of the unenforceable provision, but which complies with the law.

16. RISK ALLOCATION - LIMITATION OF LIABILITY

- (A) No Indemnification. The parties hereto expressly agree that neither party shall have the right to seek indemnification or contribution from the other party for any losses, costs, expenses, or damages directly or indirectly arising, in whole or part, from this Agreement;
- (B) Governmental Function. The parties hereto expressly agree that, in all things relating to this Agreement, the City 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. The Parties also agree that UTEP is entering into this Agreement as part of its duty to provide educational and community services;

- (C) Exclusion of Incidental and Consequential Damages. Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, neither party shall be liable to the other party (nor to any person claiming rights derived from such party's rights) for incidental, consequential, special, punitive, or exemplary damages of any kind – including lost profits, loss of business, or other economic damage, and further including injury to property, mental anguish and emotional distress – as a result of breach of any term of this Agreement, regardless of whether the party was advised, had other reason to know, or in fact knew of the possibility thereof;
- (D) Maximum Aggregate Liability. Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, **IN NO EVENT SHALL THE CITY OF EL PASO'S AGGREGATE LIABILITY TO UTEP (INCLUDING LIABILITY TO ANY PERSON OR PERSONS WHOSE CLAIM OR CLAIMS ARE BASED ON OR DERIVED FROM A RIGHT OR RIGHTS CLAIMED BY UTEP), WITH RESPECT TO ANY AND ALL CLAIMS AT ANY AND ALL TIMES ARISING FROM OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE AMOUNT OF CONSIDERATION ACTUALLY PAID BY THE CITY UNDER THE TERMS OF THIS AGREEMENT; and**
- (E) Intentional Risk Allocation. UTEP and the City each acknowledge that the provisions of this Agreement were negotiated to reflect an informed, voluntary allocation between them of all risks (both known and unknown) associated with the transactions associated with this Agreement. The disclaimers and limitations in this Agreement are intended to limit the circumstances of liability. The remedy limitations and the limitations of liability are separately intended to limit the forms of relief available to the Parties.

*(Signatures appear on next page)*

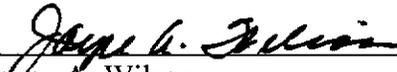
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STATE OF TEXAS                    )  
   )  
 COUNTY OF EL PASO                )       **INTERLOCAL AGREEMENT**

(Signature Page)

IN WITNESS WHEREOF, the parties have executed this Agreement in the City of El Paso, Texas on the date first above written.

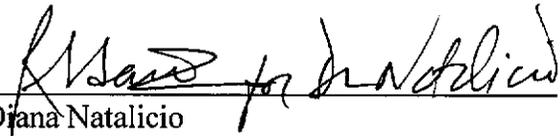
CITY OF EL PASO

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

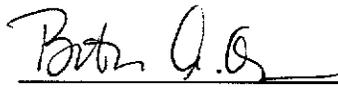
ATTEST:

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

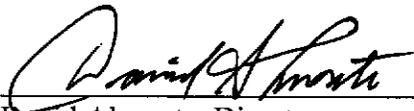
UNIVERSITY OF TEXAS AT EL PASO

  
 \_\_\_\_\_  
 Diana Natalicio  
 President

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Bertha A. Ontiveros  
 Assistant City Attorney

APPROVED AS TO CONTENT:

  
 \_\_\_\_\_  
 David Almonte, Director  
 Office of Management and Budget

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**EXHIBIT A**

**SCOPE OF WORK**

**Part 1**

**Graduate Certificate in Urban and Regional Planning/American Institute of Certified Planners (AICP) Exam Preparation**

**Developed for Development Services Department – Planning Division  
City of El Paso**

**Certificate in Urban and Regional Planning:**

The University College at the University of Texas at El Paso (UTEP) proposes to offer the City of El Paso's Development Services Department – Planning Division an Urban and Regional Planning certificate program. This thirty-session, 15 semester credit hour certificate program is associated with University College's Masters of Public Administration Program and is designed for professionals with a bachelor's or masters' degree who wish to enhance their knowledge and skills in the area of planning and, subsequently, wish to sit the American Institute of Certified Planners (AICP) exam. Students will review the content and format of the AICP exam, take several practice exams and participate in five courses designed to provide them with core knowledge in economics, statistics, law, administration and technology. Upon completion of the certificate, students will be prepared to take the AICP exam.

All students that complete the certificate and are interested in pursuing a graduate degree may apply their 15 semester credit hours towards the completion of a Masters Degree in Public Administration with a concentration in Urban and Regional Planning.

**PAD 5359: Regional and Urban Planning (3 Credit Hours)**

This planning course covers topics associated with satisfying area-wide service needs in urban and regional environments. Topics include:

- Natural Resources and Environmental Quality
- Land Use
- Infrastructure
- Transportation
- Parks and Recreation
- Rural and Small Town Planning

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**PAD 5360: Urban Administration (3 Credit Hours)**

This course covers public administration at the service delivery level with an emphasis on the management of the policy problems facing local agencies. Topics include:

- Historic Preservation
- Urban Design
- Housing
- Community Development
- Planning and Management
- Ethics
- AICP Code of Ethics and Professional Conduct

**PAD 5300: Introduction to Research Methods/Community Research and Analysis (3 Credit Hours)**

Introduction to community research methods and analysis will combine empirical testing and evaluation methods with the basic techniques used in economic development and framing public policy problems. Topics include:

- Data Analysis
- Census and Other Data
- Economic Principles
- Program Development and Implementation

**PAD 5380: Selected Problems in Public Administration-Geographical Information Systems-GIS (3 Credit Hours)**

This selected problems course is designed to increase students' understanding of the theoretical foundations of the creation and analysis of spatial data using geographic technologies. It will also instruct students on how to develop and manage spatial databases using laboratory-based techniques. The course is comprised of lectures and hands-on labs.

**PAD 5367: Comprehensive Integration of Public Administration-Capstone/Exam Preparation (3 Credit Hours)**

This course requires students to integrate and apply core knowledge and research skills to the analysis of a major planning problem. Arrangements can be made to have students address a current planning problem/project facing the city.

**Class Size:**

The certificate will be offered in a cohort format. It is anticipated that a cohort group will be comprised of approximately 15 to 20 City of El Paso employees.

**Cohorts:**

Cohort classes can be offered on alternating (every other) Fridays with adjustments appropriately made for holiday periods.

**Start Date:** To be determined, but no later than May 2009.

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**Executive Training**

In addition to staff training, a half day Executive Session will be held as part of the first session of each month (Calendar to be determined). These sessions will be targeted towards elected and senior administrative personnel. The goal will be to provide enhanced understanding and linkages between city staff and policymakers.

These sessions will be interactive focusing on, for example:

- Best practices
- Retrospective Planning
- State of the Art
- Interpretive Exercises
- Case Studies

NOTE: The addition of Executive Training may require additional sessions for staff/professional training. This will be determined as the program progresses and the strength of links between the two training areas are established.

**Location**

All training will take place in Kelly Hall or Miners Hall on the UTEP campus. Sessions with Executive Training may be held in Kelly Hall or another UTEP facility, depending on need.

**Cost**

- 1) Graduate Certificate/AICP 15 to 20 students      \$60,000 Fixed Price
  - Includes tuition, registration, books and materials
  - Includes refreshments for breaks and parking
  - Each additional student beyond 20      \$3000 per student
  
- 2) Executive Training      Estimated \$14,800 for 14 participants
  - \$1200 per participant, Fixed Price
  - Includes materials, breaks and parking

**Example of cost**

20 students	\$60,000
2 additional students beyond 20	\$6000
12 Senior administrators	\$14,400