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

DEPARTMENT: City Development

AGENDA DATE: 11/5/2013

CONTACT PERSON/PHONE: Mathew McElroy, Economic Development 541-4670

DISTRICT(S) AFFECTED: 8

SUBJECT:
That the City Manager be authorized to execute a Chapter 380 Economic Development Sales Tax Rebate Program Agreement by and between the City of El Paso and Central City Renal Construction LLC (the "Applicant"), in relation to Applicant's construction of a dialysis clinic development located at 1310 Murchison Dr., El Paso, Texas. (District 8) [Economic Development, Mathew McElroy (915) 541-4670]

BACKGROUND/DISCUSSION:
The Infill Development Incentive Policy was passed by Council on 08/24/10 and amended on 11/16/10. The applicant (owner), Central City Renal Construction LLC proposes to develop vacant, infill land at 1310 Murchison Dr. and build a dialysis clinic. The agreement consists of a five (5) year tax exemption, Building Fee Waivers and Construction Materials Sales Tax Rebates for development of the vacant land for the proposed use.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?

Yes. On 8/24/10, City Council adopted and on 11/16/10 amended the Infill Development Incentive Policy. Subsequently, On August 6, 2013 City Council approved a resolution authorizing the City Manager to sign an agreement between the City of El Paso and Hector F. Barraza, property owner of 2413 Tremont Ave., El Paso, Texas, per the City of El Paso Infill Development Incentive Policy.

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?

N/A.

BOARD/COMMISSION ACTION:
N/A

**********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 execute a Chapter 380 Economic Development Sales Tax Rebate Program Agreement by and between the City of El Paso and Central City Renal Construction LLC, a Texas Limited Liability Company, pursuant to the City's Infill Development Incentive Policy for the construction of a clinic on the vacant lot located at 1310 Murchison, El Paso, Texas.

APPROVED AND ADOPTED this _____ day of _____, 2013.

CITY OF EL PASO

_____
Oscar Leeser
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Matthew K. Behrens
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Mathew McElroy, Director
City Development Department

13-1007-745
ECO 380 Agreement Sales Tax Rebate (Infill Construction Materials)
210916_MKB

STATE OF TEXAS	)	**CHAPTER 380 ECONOMIC DEVELOPMENT**
	)	**PROGRAM AGREEMENT**
	)	**(Infill Construction Materials Sales Tax Rebate)**
COUNTY OF EL PASO	)	

This Chapter 380 Economic Development Program Agreement ("Agreement") is made and entered into by and between the **CITY OF EL PASO, TEXAS**, a Texas home rule municipal corporation, ("CITY"), and Central City Renal Construction LLC, a Texas limited liability company (the "APPLICANT"), for the purposes and considerations stated below:

RECITALS

A. The APPLICANT desires to enter into this Agreement pursuant to Chapter 380 of the Texas Local Government Code (hereinafter referred to as "Chapter 380").

B. On August 24, 2010, City Council adopted, and subsequently amended on November 16, 2010, an Infill Development Incentive Policy to promote infill development through property tax abatements, sales tax rebates, and other incentives for eligible projects meeting certain criteria.

C. The CITY desires to provide, pursuant to Chapter 380, incentives to APPLICANT to construct or renovate the REAL PROPERTY located at 1310 Murchison, El Paso, TX 79902, meeting the eligibility requirements of the Infill Development Incentive Policy, such development being more specifically described in Exhibit "B" attached hereto (the "DEVELOPMENT") which is in the designated incentive area as more specifically described in the Infill Development Incentive Policy.

D. The CITY has the authority under Chapter 380 to make loans or grants of public funds for the purposes of promoting local economic development and stimulating business and commercial activity within the City of El Paso.

E. The CITY determines that a grant of funds to APPLICANT will serve the public purpose of promoting local economic development and enhancing business and commercial activity within the City of El Paso.

F. The CITY and APPLICANT desire the construction or renovation of the DEVELOPMENT and the CITY has further determined that the DEVELOPMENT will advance the CITY'S revitalization strategy for the future growth and development of the CITY and directly and indirectly result in the creation of additional jobs in the CITY and stimulate commercial activity in an undeveloped area, the value of such benefits to the CITY outweighing the amount of the REBATE the CITY will provide to APPLICANT under this Agreement.

G. The contemplated use and improvement of the Property in the amounts and for the purposes set forth in this Agreement and the other terms hereof will encourage increased economic development in the CITY, provide significant increases in the CITY'S sales tax revenues, and

improve the CITY'S ability to provide for the health, safety and welfare of the citizens of El Paso; and

H. The CITY has concluded and hereby finds that this Agreement clearly promotes economic development in the City of El Paso and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and further, is in the best interests of the CITY and APPLICANT.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS.
The following words shall have the following meanings when used in this Agreement.

A. **Agreement.** The word "Agreement" means this Chapter 380 Economic Development Program and Agreement, together with all exhibits and schedules attached to this Agreement and incorporated herein by reference.

B. **Applicant.** The word "APPLICANT" means Central City Renal Construction LLC, the owner of REAL PROPERTY located at 1310 Murchison Drive, El Paso, TX 79902.

C. **City.** The word "CITY" means the City of El Paso, Texas.

D. **Development.** The word "DEVELOPMENT" means new construction on a vacant lot or renovation of an existing vacant or blighted building(s) to be used for any of the following land uses: single-family homes for attainable rental housing, office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing local law, such DEVELOPMENT being more specifically described by Exhibit B, which is attached hereto and incorporated herein for all purposes.

E. **Qualified Expenditures.** The words "Qualified Expenditures" means the local sales and use tax paid or caused to be paid by APPLICANT after the Effective Date of this Agreement on:

(1) The purchase of material for use in constructing or renovating the DEVELOPMENT; and

(2) Labor in the construction or renovation of the DEVELOPMENT.

F. **Rebate.** The word "REBATE" means payments to APPLICANT under the terms of this Agreement computed with reference to (i) one hundred percent (100%) of the CITY'S one percent (1%) of Sales and Use Taxes revenue generated by and attributed solely to the APPLICANT'S Qualified Expenditures and (ii) one hundred percent (100%) of the

planning and building fees associated with construction or renovation and occupancy of the DEVELOPMENT.

G. **Rebate Submittal Package.** The words "Rebate Submittal Package" mean the documentation required to be supplied to CITY annually as a condition of receipt of any REBATE, accompanied by the submittal form, which is attached as Exhibit "C" to this Agreement.

H. **Real Property.** The words "REAL PROPERTY" mean the real property owned by APPLICANT located at 1310 Murchison Drive, El Paso, TX 79902, and as more fully described on Exhibit "A" attached hereto and incorporated herein by reference. The REAL PROPERTY is the location for APPLICANT'S proposed DEVELOPMENT.

I. **Smart Code.** The words "Smart Code" means a land development ordinance adopted by City Council as referenced in Title 21, El Paso City Code.

J. **Vacant Building.** The words "Vacant Building" means a building that is sixty percent (60%) or more unoccupied and is registered as a vacant building with the City of El Paso, pursuant to Title 18, Chapter 18.40, El Paso City Code.

SECTION 1. TERM.
Except as otherwise provided herein, the term of this Agreement shall commence on the Effective Date (as hereinafter defined) and shall terminate on the first to occur of: (i) the date when the REBATE is fully paid; (ii) twenty-four months from the Effective Date; (iii) the proper termination of this Agreement in accordance with the applicable provisions contained herein; or (iv) termination by mutual consent of the parties in writing. The Effective Date of this Agreement shall be the date upon which both parties have fully executed this Agreement.

SECTION 3. OBLIGATIONS OF APPLICANT.
During the term of this Agreement, APPLICANT shall comply with the following terms and conditions:

A. **DEVELOPMENT.**

(1) APPLICANT agrees that the DEVELOPMENT is a project to construct on a vacant lot or renovate an existing vacant or blighted building(s) to be used for any of the following land uses: single-family homes for attainable rental housing, office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing local law.

(2) APPLICANT agrees that the REAL PROPERTY is either a platted, unimproved lot; contains a vacant building; contains a building that has a Central Appraisal District physical condition factor of thirty (30) or lower; or will be renovated for use as attainable rental housing.

(3) APPLICANT agrees that, except in the case of vacant land, that APPLICANT purchased the REAL PROPERTY within the one-year period preceding the Effective Date of this Agreement.

(4) APPLICANT agrees that APPLICANT has neither caused nor contributed to the present condition of the REAL PROPERTY.

(5) APPLICANT agrees to develop and construct, at its sole cost and expense, the DEVELOPMENT and to expend a minimum of Eight Hundred Thousand Dollars and NO/100 ($800,000.00) in Qualified Expenditures to construct the DEVELOPMENT.

(6) APPLICANT agrees that it will first obtain or caused to be obtained all applicable approvals and permits before the construction of the DEVELOPMENT begins.

(7) APPLICANT shall submit within twenty-four (24) calendar months documentation to the CITY to verify:

(a) the expenditure of a minimum amount of Eight Hundred Thousand Dollars and No/100 ($800,000.00) in Qualified Expenditures; and

(b) that APPLICANT has received a Certificate of Occupancy for the DEVELOPMENT.

(8) APPLICANT agrees that the DEVELOPMENT shall not include the demolition of properties with a historic overlay that are deemed historic or contributing unless specifically approved by El Paso City Council.

(9) APPLICANT agrees that DEVELOPMENT shall be in accordance with the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City municipal code, where applicable.

(10) APPLICANT agrees that, except in cases of a DEVELOPMENT which incorporates adaptive reuse, if the REAL PROPERTY is greater than five (5) acres, APPLICANT must submit an application to have the REAL PROPERTY re-zoned as Smart Code, pursuant to Title 21, El Paso City Code.

B. **DISBURSEMENT OF REBATE.**

(1) During the term of this Agreement and beginning as of the Effective Date of this Agreement and ending twenty-four (24) months thereafter, or at termination, whichever comes first, and subject to the conditions contained in this Agreement, APPLICANT shall be eligible to receive a REBATE.

(2) APPLICANT'S eligibility for any payment is expressly contingent upon APPLICANT'S satisfaction of the requirements of Section 3 of this Agreement. APPLICANT shall not be entitled to receive the REBATE unless it satisfies all the

requirements of this Agreement. APPLICANT agrees to provide the CITY with any documentation the CITY may reasonably require or request to substantiate the APPLICANT'S compliance with this Agreement.

(3) In order to receive the disbursement of the REBATE, APPLICANT must submit a Rebate Submittal Package, as specified in Section 3(C) below.

C. **REBATE SUBMITTAL PACKAGE.**

(1) Unless otherwise agreed by the CITY and APPLICANT in writing, APPLICANT shall submit annually no more than one Rebate Submittal Package in the form attached hereto as Exhibit "C", together with the requisite documentation.

(2) The Rebate Submittal Package must contain copies of the receipts or other proof of payment as documentation of the Qualified Expenditures and building and planning fees incurred in the construction of the DEVELOPMENT. The APPLICANT must also provide the same to show that it has paid or caused to be paid all the CITY'S local sales and use taxes associated with the Qualified Expenditures.

(3) The Rebate Submittal Package must contain copies of the permits for the DEVELOPMENT and APPLICANT'S certification that all documentation attached to the Rebate Submittal Package is true and correct.

D. **DELINQUENT TAXES.** APPLICANT must demonstrate before the receipts of any REBATE payments under this incentive program that APPLICANT has incurred no delinquency taxes by providing certified city tax certificates for each parcel of property owned in the City of El Paso.

E. **PROPERTY VALUE.** APPLICANT covenants and agrees that during the term of this Agreement it shall not challenge or permit anyone else to take actions on its behalf to challenge any assessments by the El Paso Central Appraisal District at Two Hundred Seventy Six Thousand Six Hundred Ninety Seven Dollars and No/100 ($276,697.00) or lower. It is the intent of the parties that the assessed value of the Property on the tax rolls have a base value of Two Hundred Seventy Six Thousand Six Hundred Ninety Seven Dollars and No/100 ($276,697.00) during the term of this agreement and any affirmative act by APPLICANT to reduce the assessed value to amount lower than Two Hundred Seventy Six Thousand Six Hundred Ninety Seven Dollars and No/100 ($276,697.00) will be an event of default that will result in termination of this Agreement.

F. **RIGHT OF ACCESS AND INSPECTION.** APPLICANT, during normal business hours, at its principal place of business in El Paso, shall allow the CITY or its agents reasonable access to operating records, accounting, books, and any other records related to the economic development considerations and incentives described herein, which are in APPLICANT'S possession, custody, or control, for purposes of verifying the Qualified Expenditures generated by the DEVELOPMENT and for audit, is so requested by the CITY. The confidentiality of such records will be maintained in accordance with and subject to all applicable laws.

SECTION 4. OBLIGATIONS OF CITY.
During the Term of this Agreement and so long as an event of default has not occurred and is not continuing as set forth in Section 5 of this Agreement (provided, however, an event of default hereunder shall not be deemed to have occurred until after the expiration of the applicable notice and cure period), CITY shall comply with the following terms and conditions:

A. The CITY agrees to process any REBATE payments to APPLICANT within ninety (90) days after receipt of the APPLICANT'S annual Rebate Submittal Package.

B. The CITY'S determination of the amount of the REBATE payment due to APPLICANT is final; provided, however, APPLICANT may appeal to the City Council within thirty (30) days of payment, the City Council shall hear the appeal within thirty (30) days and the City Council's determination of the amount of the REBATE payment shall be final; provided, however, nothing herein shall limit (or be construed to limit) APPLICANT'S rights and remedies as described in Section 5 of this Agreement.

SECTION 5. EVENTS OF DEFAULT.
Each of the following shall constitute an Event of Default under this Agreement:

A. **False Statements.** Any written warranty, representation or statement made or furnished to the CITY by APPLICANT under this Agreement or any document(s) related hereto furnished to the CITY by APPLICANT that is/are false or misleading in any material respect, either now or at the time made or furnished, and APPLICANT fails to cure same within thirty (30) days after written notice from the CITY describing the violation, or if such violation cannot be cured within such thirty (30) day period in the exercise of all due diligence, then if APPLICANT fails to commence such cure within such thirty (30) day period or fails to continuously thereafter diligently prosecute the cure of such violation, or if APPLICANT obtains actual knowledge that any such warranty, representation or statement has become false or misleading after the time that it was made, and APPLICANT fails to provide written notice to the CITY of the false or misleading nature of such warranty, representation or statement within ten (10) days after APPLICANT learns of its false or misleading nature.

B. **Insolvency.** APPLICANT files a voluntary petition in bankruptcy, a proceeding in bankruptcy is instituted against the APPLICANT and the APPLICANT is thereafter adjudicated bankrupt, a receiver for the APPLICANT'S assets is appointed, or any assignment of all or substantially all of the assets of APPLICANT for the benefit of creditors of APPLICANT.

C. **Construction of Development.** APPLICANT'S failure to comply with its construction obligations set forth in this Agreement and APPLICANT'S failure to cure same within thirty (30) Days after written notice from the CITY shall be deemed an event of default. If such failure cannot be cured within such thirty (30) day period in the exercise of all due diligence but APPLICANT fails or refuses to commence such cure within such thirty

(30) day period or fails or refuses to continuously thereafter diligently prosecute such cure, except to the extent such failure is caused by any act or failure to act on the part of the CITY, such actions or omission shall be deemed events of default.

D. **Property Taxes.** If APPLICANT allows its personal or real property taxes owed to the CITY to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure or post a satisfactory bond within thirty (30) days after written notice thereof from the CITY and/or El Paso Central Appraisal District.

E. **Other Defaults.** Failure of APPLICANT or CITY to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any related documents, or failure of APPLICANT or CITY to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement between the CITY and APPLICANT, and APPLICANT or CITY fails to cure such failure within thirty (30) days after written notice from the CITY or APPLICANT, as the case may be, describing such failure, or if such failure cannot be cured within such thirty (30) day period in the exercise of all due diligence, then if APPLICANT or CITY fails to commence such cure within such thirty (30) day period or fails to continuously thereafter diligently prosecute the cure of such failure.

F. **Failure to Cure.** If any Event of Default by APPLICANT shall occur, and after APPLICANT fails to cure same in accordance herewith, then this Agreement is terminated and the CITY'S obligations end at that time. If a default has not been cured within the time frame stated herein, the non-defaulting party shall have all rights and remedies under the law or in equity.

SECTION 6. RECAPTURE

Should the APPLICANT default under Section 5 of this Agreement and provided that the cure period for such default has expired, all REBATES previously provided by the CITY pursuant to this Agreement shall be recaptured and repaid by APPLICANT within sixty (60) days from the date of such termination.

SECTION 7. TERMINATION OF AGREEMENT BY *CITY* WITHOUT DEFAULT.

CITY may terminate this Agreement without an event of default by APPLICANT and effective immediately if any state or federal statute, regulation, case law, or other law renders this Agreement ineffectual, impractical or illegal, including case law holding that a Chapter 380 Economic Development Agreement such as this Agreement is an unconstitutional debt.

SECTION 8. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

A. **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

B. **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in El Paso County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of El Paso County, Texas.

C. **Applicant's Sale or Transfer of the Development.** Prior to any sale or other transfer of ownership rights in the DEVELOPMENT, APPLICANT shall notify the CITY in writing of such sale or transfer within thirty (30) business days of the effectiveness of such sale or transfer. This provision is a material term of this Agreement and the failure to notify the CITY of such sale or transfer within the applicable period shall constitute an event of default.

D. **Assignment.** APPLICANT understands and agrees that the CITY expressly prohibits APPLICANT from selling, transferring, assigning or conveying in any way any rights to receive the REBATE proceeds or this Agreement without the CITY'S *prior written* consent. Any such attempt to sell, transfer, assign or convey without the CITY'S prior written consent shall result in the immediate termination of this Agreement and recapture of the taxes rebated prior to the attempted transfer..

E. **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. CITY warrants and represents that the individual executing this Agreement on behalf of CITY has full authority to execute this Agreement and bind CITY to the same. APPLICANT warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind APPLICANT to the same.

F. **Use of Real Property.** As consideration for the agreements of the CITY as contained herein, APPLICANT agrees that it will diligently and faithfully in a good and workmanlike manner pursue the completion of the DEVELOPMENT and that the construction of same will be in accordance with all applicable federal, state and local laws and regulations. The REAL PROPERTY shall be limited in its use to those uses consistent with the DEVELOPMENT consistent with the CITY'S development goals, which include the encouraging of development or redevelopment of the reinvestment zone.

G. **Confidentiality Obligations.** The confidentiality of records related to the CITY'S economic development considerations and incentives provided herein will be maintained in accordance with and subject to all applicable laws, including the Public Information Act, Chapter 552, Texas Government Code. To the extent permitted by state or federal law, the CITY shall maintain the confidentiality of any proprietary information and shall not copy any such information except as necessary for dissemination to the CITY'S agents or employees and agrees that, as required by the Public Information Act, it will notify Applicant if a request relating to such proprietary information is received. APPLICANT represents that it understands that the Public Information Act excepts

disclosure of trade secret and confidential commercial information and that it will need to assert the proprietary interest of APPLICANT as a basis for nondisclosure.

H. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

I. **Employment of Undocumented Workers.** During the term of this Agreement, APPLICANT agrees not to knowingly employ any undocumented workers as defined in Texas Government Code Section 2264.001. If convicted of a violation under 8 U.S.C. Section 1324a(f), APPLICANT shall repay the amount of the Grant payments received by APPLICANT from the CITY as of the date of such violation not later than one hundred twenty (120) days after the date APPLICANT is notified by CITY of a violation of this section, plus interest from the date the Grant payment(s) was paid to APPLICANT, at the rate of seven percent (7%) per annum. The interest will accrue from the date the Grant payment(s) were paid to APPLICANT until the date the reimbursement payments are repaid to CITY. CITY may also recover court costs and reasonable attorney's fees incurred in an action to recover the Grant payment(s) subject to repayment under this section. APPLICANT is not liable for a violation by its subsidiary, affiliate, or franchisee, or by a person which whom APPLICANT contracts.

J. **Filing.** This Agreement shall be filed in the deed records of El Paso County, Texas. The provisions of this Agreement shall be deemed to run with the land and shall be binding on heirs, successors and assigns of APPLICANT.

K. **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, or court injunction, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.

L. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, delivered personally, sent by a nationally recognized overnight courier, or sent by facsimile with an original sent by United States first class mail, postage prepared on the same date addressed to the party to whom the notice is to be given at the addresses shown below. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, each party agrees to keep the other informed at all times of its current address.

APPLICANT: Central City Renal Construction LLC
Andy Carnahan
8117 Preston Road, Suite 400
Dallas, Texas 75225

CITY: City of El Paso
City Manager
P.O. Box 1890
El Paso, Texas 79950-1890

Copy To: City of El Paso
City Development Department Director
P.O. Box 1890
El Paso, Texas 79950-1890

M. **Ordinance Applicability.** The signatories hereto shall be subject to all ordinances of the CITY, whether now existing or in the future arising.

N. **Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

O. **Headings.** The Section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

P. **No Joint Venture.** It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The CITY, its past, present and future officers, elected officials, employees and agents of the CITY, do not assume any responsibilities or liabilities to any third party in connection with the DEVELOPMENT or the design, construction, or operation of the DEVELOPMENT, or any portion thereof.

Q. **Transfer to Central City Complex LP.** The CITY agrees that it will approve a transfer, assignment, or conveyance of the right to receive the REBATE under this agreement to Central City Complex LP, a Texas Limited Partnership. The APPLICANT agrees to comply with the notification requirements regarding assignments of the REBATE and transfers or sales of the DEVELOPMENT.

(SIGNATURE BEGIN ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this Agreement on this 3rd day of _____, 2013 (the "Effective Date").

APPLICANT: Central City Renal Construction

Name: Andrew Carnahan
Title: President

ACKNOWLEDGMENT

STATE OF Texas §
§
COUNTY OF Dallas §

This instrument was acknowledged before me on the 3rd day of Sept, 2013, by Andrew T. Carnahan, as President of **Central City Renal Construction LLC**, a limited liability company organized and existing under the laws of the State of Texas.

Notary Public, State of Texas

My Commission Expires:
6/14/16

PATRICIA E. COFFEY
Notary Public, State of Texas
My Commission Expires
June 14, 2016

(SIGNATURES CONTINUE ON FOLLOWING PAGE)

CITY:

By: _____
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

_____
Matthew K. Behrens
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Mathew McElroy, Director
City Development Department

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on the ____ day of _____, 2013, by Joyce A. Wilson, City Manager of the City of El Paso, Texas, on behalf of the City of El Paso, Texas.

_____
Notary Public, State of Texas

My Commission Expires:

_____

EXHIBIT "A"

[Legal Description of the REAL PROPERTY]

Lot 2,Block 1, PNH SUBDIVISION REPLAT, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof recorded in Clerk's File No. 20120077255, of the Plat Records of El Paso County, Texas.

EXHIBIT "B"

Description of Development

APPLICANT proposes to build a medical clinic, located on the vacant lot at 1310 Murchison, El Paso, TX 79902. The approximate square footage of the completed medical clinic is seventeen thousand four hundred ninety one (17,491) square feet. The total cost of clinic construction is estimated to be approximately TWO MILLION SEVEN HUNDRED SEVENTY TWO THOUSAND EIGHT HUNDRED SEVENTY NINE DOLLARS AND 0/100 ($2,772, 879).

EXHIBIT "C"

Rebate Submittal Package Form

Central City Renal Construction LLC (APPLICANT) believes it has substantially met its obligations under the Chapter 380 Agreement executed on _____ (date). Pursuant to the agreement, APPLICANT submits this Rebate Submittal Package Form in compliance with said Agreement and in anticipation of receiving the Rebate in consideration for its obligations met under the Agreement.

As required by the Agreement, the following information is submitted.

1. Copies of receipts evidencing payment by Applicant or an Applicant's behalf of at least a minimum aggregate of EIGHT HUNDRED THOUSAND DOLLARS AND NO/100 ($800,000.00) in Qualified Expenditures associated with the Development, as those terms are defined in the Agreement.
2. Copies of all required permits and approvals obtained by APPLICANT or on APPLICANT'S behalf for construction of improvements in the Development.
3. Property Tax Payment Receipt(s) of payment for tax year _____.

It is understood by APPLICANT that the City of El Paso has up to ninety (90) days to process this request and reserves the right to deny the Rebate claim if the APPLICANT has failed to comply with the terms of the Agreement.

By the signature of APPLICANT below, APPLICANT hereby certifies that: (1) the copies of the receipts attached to this Rebate Submittal Package Form represent Qualified Expenditures incurred in the improvements and new construction to the Development; (2) APPLICANT has paid or caused to be paid the City's local sales and use taxes associated with the Qualified Expenditures; and (3) that the copies of the receipts and copies of the permits attached herein are true and correct.

Signature: _____