

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

**DEPARTMENT:** City Manager's Office

**AGENDA DATE:** November 12, 2013

**CONTACT PERSON NAME AND PHONE NUMBER:** Carlos H. Ramirez, City Manager's Office, 541-4859

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

That the City Manager be authorized to sign an agreement by and between the City of El Paso and NO D.U.I. EL PASO to pay towards the cost of radio communication equipment to be used by NO D.U.I. EL PASO in the course of providing designated driver service trips to individuals from establishments within the El Paso City limits in an effort to reduce alcohol-related accidents.

**BACKGROUND / DISCUSSION:**

On October 2, 2012, the City Council entered into a one-year agreement with NO D.U.I. EL PASO to provide funding from City Council discretionary funds to offset the costs incurred in providing designated service trips to individuals from establishments within the El Paso City limits in an effort to reduce alcohol-related accidents. This new agreement will provide funding from City Council discretionary funds to pay towards the cost of radio communication equipment to be used by NO D.U.I. EL PASO.

**PRIOR COUNCIL ACTION:**

July 26, 2012, the City Council discussed entering into a contract with NO D.U.I. EL PASO.

October 2, 2012, the City Council entered into a one-year agreement with NO D.U.I. EL PASO to provide funding from City Council discretionary funds to offset the costs incurred in providing designated service trips to individuals from establishments within the El Paso City limits in an effort to reduce alcohol-related accidents.

October 8, 2013, the City Council discussed possibilities of housing the NO D.U.I. EL PASO at a City facility at a minimal cost and to research other funding opportunities for the program.

**AMOUNT AND SOURCE OF FUNDING:**

Discretionary Fund Accounts:  
District 1 Dept ID: 10000           \$500  
District 8 Dept ID: 10700       \$1,000

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**BOARD / COMMISSION ACTION:**

N/A

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

**DEPARTMENT HEAD:**

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

*Information copy to appropriate Deputy City Manager*

**R E S O L U T I O N**

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

That the City Council declares that the expenditure of District 1 and District 8 discretionary funds in an amount not to exceed \$1,500.00 to pay towards the costs of a radio communication equipment to be used by NO D.U.I. EL PASO in the course of providing designated driver service trips to individuals from establishments within the El Paso City limits in an effort to reduce alcohol-related accidents serves as a crime prevention and constitutes an important municipal purpose or benefit to the City and citizens of El Paso; and

That the City Manager be authorized to sign an agreement by and between the CITY OF EL PASO and NO D.U.I. EL PASO to expend the discretionary funds to offset the cost of the purchase of radio communication equipment.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeser  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Sol M. Cortez  
Assistant City Attorney

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO    )

**AGREEMENT**

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the **CITY OF EL PASO, TEXAS**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the “City,” and **NO D.U.I. EL PASO**, a Texas nonprofit corporation, hereinafter referred to as “Contractor.”

**WITNESSETH**

**WHEREAS**, Contractor provides designated driver service trips which serves as a crime prevention activity by reducing alcohol-related traffic accidents in El Paso;

**WHEREAS**, Contractor is in need of funds to pay the costs of radio communication equipment to be used by the Contractor’s volunteers in the performance of the designated driver service trips and funds for such purpose are available from the discretionary funds for City Council Representatives District 1 and District 8;

**WHEREAS**, Contractor has inadequate funding available for this cost; and

**WHEREAS**, the City Council found that the expenditure of District 1 and District 8 discretionary funds for the purchase radio communication equipment used by Contractor in providing designated driver service trips advances the municipal purpose of crime prevention in the City of El Paso for the benefit of the City and citizens of El Paso for which the City is willing to expend the funds designated in this Agreement; and

**NOW, THEREFORE**, in consideration of the promises and mutual agreements hereinafter set forth, the parties hereto do mutually agree as follows:

1.    **DURATION AND SCOPE.** Contractor agrees that in conjunction with its crime prevention activities, Contractor shall utilize the funding provided under this Agreement solely for purposes of purchasing the radio communication equipment to be used by the Contractor when providing designated driver services trips to individuals from establishments located within the El Paso city limits in an effort to reduce alcohol- related traffic accidents in El Paso, Texas.

2.    **CONSIDERATION.** The City shall provide monetary support in the total amount of \$1,500.00 (being a maximum amount of \$500.00 from City Council Representative District No. 1; a maximum amount of \$1,000.00 from City Council Representative No. 8) to Contractor from available discretionary funds from City Council Representative District 1 and District 8, to be used to reimburse the purchase of radio communication equipment used in the performance of the scope or work described in paragraph 1 above. The Contractor shall provide the City Manager or designee a receipt of the purchase of the radio communication equipment.

In the event that Contractor does not purchase the radio communication equipment or provide receipt of the purchase to get reimbursement from the City equal to or greater than the amount of consideration provided under this Agreement, no monetary support shall be provided or shall be due and owing to the Contractor.

3. **LEGAL RELATIONSHIP.** Nothing in this Agreement shall be construed as creating a legal relationship of co-sponsorship or responsibility for the Contractor and any organization involved in providing designated driver service trips or any other activity of the Contractor. Contractor is an independent contractor, and nothing herein shall be construed as creating the relationship of employer and employee or principal and agent between the parties.

4. **RELEASE AND INDEMNIFICATION. CONTRACTOR HEREBY RELEASES AND FOREVER DISCHARGES THE CITY FROM ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS OR CAUSES OF ACTION, WHETHER ON ACCOUNT OF PERSONAL INJURY, DEATH OR DAMAGE TO PROPERTY, RESULTING OR TO RESULT FROM THE EVENT. CONTRACTOR FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY FROM ANY SUCH CLAIMS, CAUSES OF ACTION OR DEMANDS, INCLUDING SUBROGATION, NOW OR IN THE FUTURE DUE TO THE EVENT, INCLUDING, BUT NOT LIMITED TO, CLAIMS, DEMANDS, DAMAGES, ACTIONS OR CAUSES OF ACTION FROM OR BY ANY PERSON.**

5. **SAFETY.** Contractor shall comply with all applicable laws, ordinances and regulations.

6. **DISCRIMINATION.** Contractor, its officers, agents, servants, employees, volunteers and third parties will not discriminate on account of race, color, religion, sex or national origin, nor will it permit or allow any discrimination in the work done pursuant to this Agreement.

7. **NON-RELIGIOUS ACTIVITIES.** Contractor will conduct the Event, insofar as it may involve the City of El Paso, in a manner that is exclusively non-religious in nature and scope; there will be no religious services, proselytizing, instruction, or any other religious influences in connection with the group insofar as it may involve the City of El Paso. Contractor shall not represent that the City of El Paso is in support of or in favor of any religious services, proselytizing, instruction, or any other religious influences.

8. **COMPLIANCE WITH LAWS.** Contractor shall comply with all applicable federal, state and local laws and regulations; all City ordinances and all codes and regulations. Failure to do so in a manner which materially impairs the quality of performance hereunder or affects the administration of the funds provided hereunder shall constitute a material breach of this Agreement.

9. **TERMINATION.** Either party may terminate this Agreement by sending written notice to the other if the other is in default in a matter of serious importance to the aggrieved party. Termination shall be without prejudice to any obligation by one party to the other which shall have accrued and be owing prior thereto.

10. **SEVERABILITY.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

11. **NOTICES.** All notices and communications under this Agreement shall be either hand-delivered or mailed, postage prepaid in the United States Postal Services, to the respective parties at the respective addresses shown below, unless and until either party is otherwise notified in writing:

CITY: City Manager  
City of El Paso  
300 N. Campbell  
El Paso, Texas 79901

CONTRACTOR: No D.U.I. El Paso  
Attn: Tyler D. Rouse, President  
6020 Sorrel Drive  
El Paso, Texas 79932

12. **ENTIRE AGREEMENT.** This Agreement constitutes and expresses the entire agreement of the parties hereto in reference to any of the matters herein provided for or herein discussed or mentioned in reference to the providing of such services, all promises, representatives, and understandings relative hereto being herein merged.

**IN WITNESS WHEREOF,** the parties have entered into this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**THE CITY OF EL PASO**

\_\_\_\_\_  
Joyce Wilson  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Sol M. Cortez  
Assistant City Attorney

CONTRACTOR:  
**NO D.U.I. EL PASO**

\_\_\_\_\_  
Tyler D. Rouse, President