

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

DEPARTMENT: City Development Department

AGENDA DATE: December 11, 2012 Regular Agenda

CONTACT PERSON/PHONE: Mathew McElroy, Director, 541-4193

DISTRICT(S) AFFECTED: ALL

SUBJECT:

Discussion and action that the City Manager be authorized to sign a Chapter 380 Grant Agreement by and between the City of El Paso, a home-rule municipality of El Paso County, Texas and ADP, Inc., a Delaware Corporation for the construction of a new facility and expansion of its operations within the city limits of the City of El Paso. [City Development, Mathew McElroy, Director, 541-4193].

BACKGROUND/DISCUSSION:

ADP, Inc. has previously received economic development incentives in relation to their expansion into El Paso in 2007. ADP, Inc. plans to expand their El Paso operations again, resulting in the creation of 585 new jobs and \$21,000,000 capital investment.

PRIOR COUNCIL ACTION:

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

Yes. Regular Agenda on March 13, 2007, Council authorized the City Manager to enter into a Tax Abatement Agreement with ADP, Inc. by which ADP, Inc. received a 5 year 50% tax abatement from the City of El Paso for creating 1028 jobs and investing an estimated \$23,000,000 in total real improvements and new business personal property in constructing, opening and operating a Solutions/Technical Support Facility in El Paso, Texas.

AMOUNT AND SOURCE OF FUNDING:

General Fund

BOARD/COMMISSION ACTION:

Enter appropriate comments or N/A.

N/A

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

DEPARTMENT HEAD: _____



CITY CLERK DEPT.
2012 DEC -6 AM 10:53

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 Grant Agreement by and between the **CITY OF EL PASO, TEXAS**, a home-rule municipality of El Paso County, Texas and **ADP, INC.**, a Delaware Corporation for the construction of a new facility and expansion of its operations within the city limits of the City of El Paso.

PASSED AND APPROVED this _____ day of _____ 2012.

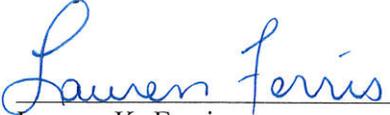
CITY OF EL PASO, TEXAS

ATTEST:

John F. Cook
Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Lauren K. Ferris
Assistant City Attorney

APPROVED AS TO CONTENT:



Mathew McElroy, Director
City Development Department

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**CHAPTER 380 ECONOMIC DEVELOPMENT
PROGRAM AGREEMENT**

This Chapter 380 Economic Development Program Agreement (“Agreement”) is made and entered into by and between the **CITY OF EL PASO, TEXAS** (“City”), a Texas home rule municipal corporation, and **ADP, Inc.** (“Applicant”), a Delaware Corporation, for the purposes and considerations stated below:

WHEREAS, the Applicant desires to enter into this Agreement pursuant to Chapter 380 of the Texas Local Government Code (“Chapter 380”); and

WHEREAS, the City desires to provide, pursuant to Chapter 380, an incentive to Applicant to expand its operations as more fully described below; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, the City and Applicant desire that expansion of Applicant’s operations occur in the City of El Paso; and

WHEREAS, the expansion of the Applicant’s operations will encourage increased economic development in the City, provide significant increases in the City’s property tax revenues, and improve the City’s ability to provide for the health, safety and welfare of the citizens of El Paso; and

WHEREAS, the City has concluded and hereby finds that this Agreement embodies an eligible “program” and 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 Agreement, together with all exhibits and schedules attached to this Agreement.
- B. **Applicant.** The word “Applicant” means **ADP, Inc.**, a Delaware Corporation.
- C. **City.** The word “City” means the City of El Paso, Texas.
- D. **Development.** The word “Development” means the expansion of the Applicant’s operations in the City of El Paso as more fully described on Exhibit “A”, which is attached hereto and incorporated herein for all purposes.
- E. **Full-Time Employment.** The words “Full-Time Employment” mean a job requiring a minimum of two thousand and eighty (2,080) hours of work averaged over a twelve (12) month period, including allowance for vacation and sick leave, with full company benefits, including company paid health insurance (Employee must not be required to pay more than fifty percent (50%) of the premium) with such jobs being located at the Development, within the City of El Paso, Texas. These requirements are more completely described in Exhibit “B”, which is attached hereto and incorporated herein for all purposes.
- F. **Grant.** The word “Grant” means a payment on a yearly basis to Applicant under the terms of this Agreement computed with reference to property taxes generated by the Development and payable from the City’s general revenue fund.
- G. **Grant Submittal Package.** The words “Grant Submittal Package” mean the documentation required to be supplied to City on a yearly basis as a condition of receipt of any Grant, with such documentation more fully described in Exhibit “C”, which is attached hereto and incorporated herein for all purposes.
- H. **Qualified Expenditures.** The words “Qualified Expenditures” means those costs incurred by Applicant in the acquisition, construction or furnishing of the Development.

SECTION 2. TERM AND GRANT PERIOD.

The term of this Agreement shall be sixteen (16) years from the Effective Date of this Agreement. The Effective Date of this Agreement shall be the date upon which both parties have fully executed this Agreement, as noted below. However, the Applicant’s eligibility for Grant payments shall be limited to ten (10) consecutive years (the “Grant Period”) within the term of this Agreement. The Grant Period shall begin with the first year being the first tax year that begins after: (i) the issuance of the Certificate of Occupancy for the Development; and, (ii) the Applicant having met the Full Time Employment job requirements noted in Exhibit “B”, which is attached hereto and incorporated herein for all purposes. Failure of the Applicant to receive its Certificate of Occupancy and meet its Full Time Employment job requirements in accordance with Exhibit “B” shall result in the immediate termination of this Agreement. The City shall review Applicant’s eligibility for Grant Payments on an annual basis during the Grant Period.

SECTION 3. OBLIGATIONS OF APPLICANT.

During the term of this Agreement, Applicant shall comply with the following terms and conditions:

- A. Applicant agrees to develop, construct, and operate, at its sole cost, the Development. Applicant shall commence construction and or improvements of the Development by the end of calendar year 2015. Applicant shall receive a Certificate of Occupancy, and be open for business to the general public by the end of calendar year 2017. Applicant agrees that it shall make Qualified Expenditures of not less than Twenty One Million Dollars (\$21,000,000.00) in the Development. The City shall be permitted to review Applicant's receipts of Qualified Expenditures to evidence the expenditure of a minimum amount of Twenty One Million Dollars (\$21,000,000.00).
- B. Applicant agrees that it shall create, staff, and maintain the Full-Time Employment positions described in Exhibit "B" for the Development in accordance with Exhibit "B", and shall maintain the Full-Time Employment positions for the Development through the entire Grant Period of this Agreement. Applicant shall maintain the Full-Time Employment positions for each quarter of each fiscal year with the total per day hours worked averaged over each fiscal quarter.

Applicant shall provide the City with an annual report by April 30th of each year during the entire Grant Period of this Agreement, certifying the status of compliance through the preceding year. Such annual report shall include the number of new jobs created and retained for the Development, information on any new investments in the Development, and any other information relevant to the Development and the City's economic development goals. Documentation for jobs may be in the form of quarterly IRS 941 returns, Texas Workforce Commission Employer Quarterly Reports, or employee rosters that show the hours worked and the positions filled. Applicant shall also provide the City with such other reports as may reasonably be required.

Applicant, during normal business hours, at its principal place of business in El Paso, Texas, shall allow the City or its agents reasonable access to Applicant's employment records and books, and other records that are related to the economic development considerations and incentives described herein, to verify employment records and any other records related to the City's economic development considerations and incentives provided herein. The confidentiality of such records will be maintained in accordance with and subject to all applicable laws.

- C. Unless otherwise agreed by the City and Applicant, each Grant Submittal Package shall be in the form provided in Exhibit "C". If Applicant fails to timely submit a Grant Submittal Package for a particular year, the City may give Applicant written notice of its failure to timely submit such Grant Submittal Package, and Applicant shall have thirty (30) calendar days from the date on which such written notice is given in which to submit such Grant Submittal Package. The City's determination of the amount of the Grant

payment due to Applicant is final; provided, however, that the Applicant may appeal to the City Council within thirty (30) days of payment. The City Council shall hear the appeal within thirty (30) days of request for appeal and the City Council's determination of the amount of the Grant payment shall be final. Nothing herein shall limit (or be construed to limit) Applicant's rights and remedies as described in Section 5 of this Agreement.

- D. Applicant shall pay by January 31 of each year all of the real and business personal ad valorem taxes due for the previous tax year on the Development and any other property within the City of El Paso. The parties to this Agreement agree that the taxable value of the Development, after completion of all construction and improvements, will have a minimum base value of Twenty One Million Dollars (\$21,000,000.00). Applicant shall have the right to contest the appraised value of the Development as provided by law. However, 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 Central Appraisal District at \$21,000,000.00 or lower. It is the intent of the parties that the assessed value of the Development on the tax rolls shall have a minimum base value of \$21,000,000.00 during the term of this Agreement and any affirmative act by Applicant to reduce the assessed value to amount below \$21,000,000.00 will be deemed an event of default that will result in termination of this Agreement.

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 herein (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 Grant Payments to Applicant within ninety (90) days after its approval of the Applicant's Grant Submittal Package.
- B. Pursuant to the City's "Incentives Policy – Guidelines and Criteria" attached hereto as Exhibit "D", the City shall determine the total amount of Grant Payments due to the Applicant, if any, on an annual basis during the Grant Period. The minimum amount of the Grant Payment the Applicant shall be eligible for each year shall be as set forth in Exhibit "B".

SECTION 5. EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default under this Agreement:

- A. **Failure to Maintain Development and Job Requirements.** Applicant's failure or refusal to operate the Development and maintain required Full Time Employment pursuant to this Agreement through the entire Grant Period of this Agreement, and Applicant's failure or

refusal to cure within thirty (30) days after written notice from the City describing such failure, shall be deemed an event of default. However, if such failure cannot be cured within such thirty (30) day period in the exercise of all due diligence, but the Applicant has not yet commenced such cure within such thirty (30) day period or fails to continuously thereafter diligently prosecute the cure of such failure, such actions or omissions shall also be deemed an event of default.

- B. **False Statements.** In the event the Applicant provides any written warranty, representation or statement under this Agreement or any document(s) related hereto 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 shall be deemed an event of default. If such violation cannot be cured within such thirty (30) day period in the exercise of all due diligence, and Applicant fails to commence such cure within such thirty (30) day period or fails to continuously thereafter diligently prosecute the cure of such violation, such actions or omissions shall also be deemed an event of default. Further, if Applicant obtains actual knowledge that any previously provided 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, such action or omission shall be deemed an event of default. In the event this Agreement is terminated pursuant to this Section, all Grant Payments 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.
- C. **Insolvency.** The dissolution or termination of Applicant's existence as a going business or concern, Applicant's insolvency, appointment of receiver for any part of Applicant's portion of the Property, any assignment of all or substantially all of the assets of Applicant for the benefit of creditors of Applicant, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Applicant shall all be deemed events of default. However, in the case of involuntary proceedings, if such proceedings are discharged within sixty (60) days after filing, no event of default shall be deemed to have occurred.
- D. **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 omissions shall be deemed events of default.
- E. **Property Taxes.** In the event Applicant allows any 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, such actions or omissions shall be deemed an event of default. Subject to the restrictions noted herein, Applicant shall have the right to contest the appraised value of the Development.

- F. **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, and Applicant or City fails to cure such failure within thirty (30) days after written notice from the other party describing such failure 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 if Applicant or City also fails or refuses to commence such cure within such thirty (30) day period or fails or refuses to continuously thereafter diligently prosecute the cure of such failure, such act or omission shall be deemed an event of default.
- G. **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 without any further action required of the City 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. TERMINATION OF AGREEMENT BY CITY WITHOUT DEFAULT OF APPLICANT.

The City may terminate this Agreement for its convenience and without the requirement of an event of default by Applicant, which shall become effective immediately if any state or federal statute, regulation, case law, or other law renders this Agreement ineffectual, impractical or illegal, including any case law holding that a Chapter 380 Economic Development Agreement such as this Agreement is an unconstitutional debt.

SECTION 7. 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 both parties.
- 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. **Assignment of Applicant's Rights.** Applicant understands and agrees that the City expressly prohibits Applicant from selling, transferring, assigning or conveying in any

way any rights to receive the Grant proceeds 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, with no ability for the Applicant to cure.

- D. **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.
- 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. The individual executing this Agreement on Applicant's behalf warrants and represents that he or she has full authority to execute this Agreement and bind Applicant to the same.
- F. **Completion of Development.** 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.
- G. **Confidentiality Obligations.** The confidentiality of such records employment records and any other 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. Specifically, the City will maintain the confidentiality of any proprietary information to the extent permitted by law 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. **Execution of Agreement.** The El Paso City Council has authorized the El Paso City Manager to execute this Agreement on behalf of the City.
- K. **Filing.** The City shall file this Agreement in the deed records of El Paso County, Texas.
- L. **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.
- M. **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, 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.

CITY: City of El Paso
City Manager
2 Civic Center Plaza
El Paso, Texas 79901

Copy To: City of El Paso
Economic Development Department Director
2 Civic Center Plaza
El Paso, Texas 79901

APPLICANT: ADP, Inc.
1 ADP Blvd.
Roseland, New Jersey 07068

- N. **Ordinance Applicability.** The signatories hereto shall be subject to all ordinances of the City, whether now existing or in the future arising; provided however no ordinance shall

reduce or diminish the contractual obligations contained herein. This Agreement shall confer no vested rights on the Development unless specifically enumerated herein.

- O. **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.

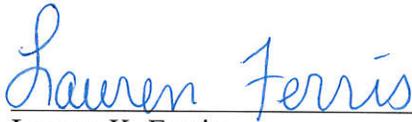
(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of December, 2012.

CITY OF EL PASO, TEXAS

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Lauren K. Ferris
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 December, 2012, by **Joyce A. Wilson**, as **City Manager** of the **City of El Paso, Texas (CITY)**.

My Commission Expires:

Notary Public, State of Texas

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

EXHIBIT A

The investment detailed in the table below at a property located within the city limits of the City of El Paso that is not located in a Transportation Reinvestment Zone (TRZ) or a Tax Increment Reinvestment Zone (TIRZ) or any other properties from which the City does not receive ad valorem taxes.

Projected Investment Schedule \$21,000,000,000

<u>Year</u>	<u>Building(s)</u>	<u>Machinery & Equipment</u>	<u>Total Investment</u>
<u>2015</u>	\$10,500,000	\$3,500,000	\$14,000,000
<u>2016</u>		\$3,500,000	\$3,500,000
<u>2017</u>		\$3,500,000	\$3,500,000
TOTALS	\$10,500,000	\$10,500,000	\$21,000,000

EXHIBIT B

Employment Requirements & Grant Payment Eligibility

SECTION 1. MINIMUM JOB CREATION AND RETENTION REQUIREMENTS.

In order to be eligible for any Grant Payments, Applicant is required to create and maintain the minimum jobs that comply with the Full Time Employment requirements of this Agreement. Applicant agrees that these Full Time Employment requirements are in addition to jobs currently employed by Applicant in 2012 in the City of El Paso.

Specific to the Minimum Job Creation and Retention Requirements, the City and Applicant hereby agree that Applicant will create an aggregate of 585 new jobs within a period of five (5) years from this Agreement's Effective Date. Notwithstanding the foregoing, if on the 5th year anniversary date of this Agreement's Effective Date, Applicant fails to create the total of 585 new jobs, but achieves a minimum of 80% of the total job creation requirement, Applicant will remain eligible for the Grant Payments in accordance with Section 2 below.

SECTION 2. ELIGIBILITY FOR GRANT PAYMENTS.

The Applicant's eligibility for Grant Payments and any subsequent Grant Payments made by the City to the Applicant shall be determined pursuant to and in accordance with the following:

- A. Grant Payments shall be made equivalent to at least **twenty-five percent (25%)** of the taxes collected on the Development's personal and real property tax account(s) for the tax year covered by the Grant Submittal Package, upon Applicant's certification of at least **eighty percent (80%)** of the new jobs required herein for which wages are at or above **ninety percent (90%)** of the Median County Wage for the year covered by the Grant Submittal Package; or
- B. Grant Payments shall be made equivalent to at least **fifty percent (50%)** of the taxes collected on the Development's personal and real property tax account(s) for the tax year covered by the Grant Submittal Package, upon Applicant's certification of at least **ninety percent (90%)** of the new jobs required herein for which wages are at or above **ninety percent (90%)** of the Median County Wage for the year covered by the Grant Submittal Package.

SECTION 3. MEDIAN COUNTY WAGE.

For purposes of this Agreement, the Median County Wage is that wage established for the County of El Paso as adjusted on January 1 of each year. However, in no event shall the applicable Median County Wage used for determination of Grant Payment eligibility be less than the Median County Wage established for 2012, which is \$12.36 per hour.

EXHIBIT D

[Incentives Policy – Guidelines and Criteria]

City of El Paso Incentives Policy – Guidelines & Criteria February 2010

SECTION I. PURPOSE

It is the policy of the City of El Paso to provide incentives to selected private businesses that make or will make a **measurable** difference in achieving economic growth and development, expanding and diversifying the tax base and creating new quality jobs within the City of El Paso.

The purpose of this policy is to define the financial incentives and to establish standards for implementation. New businesses or expansion of existing businesses can be considered for financial incentives. In order to be eligible for incentives, businesses or individuals must be current on all city taxes or any other obligation to the City

Incentives cannot be transferred as a result of a change in the majority ownership of the business without the expressed written consent of the City of El Paso. Any new owner shall file a new application for an economic development incentive. It shall be the responsibility of the business to notify the City of any such substantive change.

The City of El Paso is under no obligation to approve any requested incentive and no right to these incentives is neither intended nor implied.

SECTION II. STRATEGIC OBJECTIVES

The City of El Paso, through the implementation of this policy, shall endeavor to accomplish the following strategic objectives:

1. The City of El Paso will pursue a stable, year-round economy with an emphasis on targeting **quality** jobs. A quality job is defined as a job that pays a wage or salary equal to or greater than the current El Paso County Median Wage as computed annually by the Texas Workforce Commission and provides health insurance benefits to employees for which the employer pays at least 50%.
2. The City of El Paso supports the retention and expansion of existing businesses within the City.
3. The City of El Paso supports the attraction of primary and secondary targets identified in Regional Economic Development Corporation's ("REDCO") strategic plan and attached as Exhibit "A"
4. The City of El Paso supports large private commercial recreational and tourism ventures that attract a Regional or National client base.

5. The City of El Paso supports the revitalization of designated redevelopment areas.
6. The City of El Paso supports the attraction and retention of companies that have strong Regional and National markets for their products or services.
7. The City's economic development efforts should be consistent with the City's Growth & Development Policy and General Plan for the El Paso area.
8. The City of El Paso supports Creative Class businesses as defined by Richard Florida in "The Rise of the Creative Class".

SECTION III. GENERAL CRITERIA

The City of El Paso may provide incentives for any business or commercial development project if that project:

1. Will substantially enhance the economic health of the City of El Paso;
2. Will result in a net increase or retention of jobs in the City or add to the tax base or will otherwise improve or enhance the economic welfare of the residents or businesses of the City; or
3. Demonstrates the potential to generate revenues to the City which outweigh costs associated with incentives.

In addition, the following criteria must be satisfied.

The project **MUST**:

1. Show a clear demonstration of public purpose and economic benefit through advancement of the City's economic goals which include expanding the tax base, creating quality jobs, increasing private capital investment in the community, spurring development in targeted City locations; or encouraging development of targeted businesses or clusters desirable to enhance the City's economy;
2. Include solid evidence provided by the business that demonstrates the business's financial stability and capacity to complete the project;
3. Be in compliance with all local, state and federal laws.

The business, in order to receive any such incentives from the City of El Paso will make available credible information, including but not limited to capital investment and employment projections, to enable the City to prepare a fiscal impact analysis. The

recipient will also make available an update of this data available annually after business operations have begun. The decision to provide any economic development incentives will be considered on a project-by-project basis, in accordance with the criteria set forth in this policy, and at the discretion of the City Council of the City of El Paso.

SECTION IV. QUALIFICATION CRITERIA

In order to be eligible for incentives, a project must meet qualifying standards in at least ONE of the categories below. ALL projects must receive a job credit of 25 or more to be eligible.

Job Credit Scoring:

a. Wages

Less than \$10.57/hr	=	0X
10.57-12.57/hr (or 100% to 119% of MCW whichever is greater)	=	1.0X
12.58 - 15.84/hr (120% to 149% of MCW whichever is greater)	=	1.5X
15.85/hr or more (150% of MCW whichever is greater)	=	2.0X

b. Number of Jobs

Example: ABC Company is establishing operations and hiring or retaining 40 workers

Credit for number of jobs will be based on the wage levels above. For instance, if a company is hiring or retaining 5 jobs at less than \$10.57/hr, 5 jobs at \$11/hr, 10 jobs at \$14/hr and 20 jobs at \$16/hr then their job credit would be calculated as follows:

<i>Salary</i>	<i>Jobs</i>	*	<i>Factor</i>	=	<i>credits</i>
>\$10.57/hr	5	*	0	=	0
\$11/hr	5	*	1	=	5
\$14/hr	10	*	1.5	=	15
\$16/hr	<u>20</u>	*	2	=	<u>40</u>
Totals:	40			=	60

Category 1 - Quality Jobs - 80% of jobs must be at or above \$10.57/hr (or the prevailing median county wage, whichever is higher).

If 80% of the jobs pay at least 10.57/hr or the prevailing Median County Wage (whichever is greater) the company is eligible for a 50% Grant.

Category 2 - Targeted Location

- a. Located in a Federal Zone (Empowerment or Enterprise Zone) or;
- b. Located in a Census Tract with greater than 20% of its population at or above poverty level or;
- c. Located in a City defined Targeted Redevelopment Area.

Grant Amounts will be based on the following:

25% Grant - A minimum of 80% of the jobs paying at least \$9.51/hr (or 90% of the MCW whichever is higher) or;

50% Grant - A minimum of 90% of the jobs paying at least \$9.51/hr (or 90% of the MCW whichever is higher).

Category 3 - Business Type

- a. Market for service or product is Regional, National or Global, or;
- b. Primary and additional targets identified in REDCO's strategic plan and identified in Exhibit "A" or;
- c. *Member of Creative Class as defined by Richard Florida in "The Rise of the Creative Class."
- d. *R&D, publishing, software, television & radio, design, music, film, toys & games, advertising, architecture, performing arts, crafts, video games design, fashion design and art.

Grant Amounts will be based on the following:

25% Grant - A minimum of 80% of the jobs paying at least \$9.51/hr (or 90% of the MCW whichever is higher) or;

50% Grant - A minimum of 90% of the jobs paying at least \$9.51/hr (or 90% of the MCW whichever is higher).

Category 4 – Capital Intensive Project

If 80% of Jobs pay at least \$9.51/hr (or 90% of MCW whichever is higher)

AND;

Capital Investment is \$30M – \$49M - 30% Grant

Capital Investment is \$50M or more - 35% Grant

Or;

If 90% of Jobs pay at least \$9.51/hr (or 90 % of MCW whichever is higher)

AND;

Capital Investment is \$30M - \$49M - 60% Grant

Capital Investment is \$50M or more - 65% Grant

SECTION V. ECONOMIC DEVELOPMENT INCENTIVE

Companies meeting the qualification standards above who wish to pursue incentives will need to pay a \$750 non refundable application fee in order to formally request incentives.

An economic impact analysis will be conducted by the Economic Development Department on every project considered for incentives. The delivery mechanism of choice for incentives will be the Chapter 380 agreement; however, the City reserves the right to use any other source (City, State, Federal, Foundation, etc.) in the award of incentives. As a matter of general policy, tax abatements and Chapter 380 agreements entered into as a result of this policy will not be used simultaneously unless the revenue stream from which the Chapter 380 agreement is paid is derived from sources other than property tax.

Agreements may be conditioned on the completion of specific improvements to real property and/or job numbers and salaries levels being met. The Agreements shall contain recapture clauses in the event that such conditions are not met.

The Economic Development Department is charged with developing a recommendation to council. In most cases, Incentives will be limited to 50% of the calculated direct, indirect and induced benefit, (excluding any bonus incentives earned) unless extraordinary benefit can be shown. All incentives packages will be limited to 100% of the taxes (real & property) actually collected in any given year unless approved by specific council action. For Category 2(c) (Targeted Redevelopment Area), the City Council may consider offering incentives based on capital investment only. Final Percentages of all grants will be at the sole discretion of City Council.

SECTION VI. BONUS INCENTIVES

In order to be eligible under this section, a company must first establish eligibility in one of the prior categories (1 – 4)

A 50% Bonus may be earned if:

1. The company agrees to locate within the area covered by the Downtown 2015 plan.

2. The company locates a headquarters unit with a minimum of 100 employees to El Paso.
3. The company locates their Research & Development (as defined by Federal Tax Code) in El Paso (25% of the total jobs must be Research & Development related or directly support the Research & Development function).

Dedicated to Outstanding Customer Service for a Better Community

S E R V I C E S O L U T I O N S S U C C E S S



MEMORANDUM

DATE: November 27, 2012
TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager
FROM: Mathew McElroy, City Development Director
SUBJECT: Chapter 380 Grant Agreement- ADP, Inc. ("ADP")

On March 13, 2007, Council authorized the City Manager to enter into a Tax Abatement Agreement with ADP by which ADP received a 5 year 50% tax abatement from the City of El Paso for creating 1028 jobs and investing an estimated \$23,000,000 in total real improvements and new business personal property in constructing, opening and operating a Solutions/Technical Support Facility in El Paso, Texas. ADP plans to expand their El Paso operations again, resulting in the creation of 585 new jobs and \$21,000,000 capital investment.

Given the considerable public benefit that stands to be realized from this expansion, ADP is requesting economic development incentives. It is in the best interest of the City to ensure that this expansion takes place within the city limits of the City of El Paso, Texas. Pursuant to the proposed Chapter 380 Grant Agreement, ADP will receive a 10 year 50% tax abatement from the City of El Paso for creating 585 jobs and investing an estimated \$21,000,000 in total real improvements and new business personal property in constructing, opening and operating a new facility in El Paso, Texas.

Staff is recommending approval of the Chapter 380 Grant Agreement as the development is anticipated to encourage increased economic development in the City, provide significant increases in the City's property tax revenues, create significant number of well paying jobs, and therefore meets the requisites under Chapter 380 of the Texas Local Government Code.



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Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Cortney Carlisle Niland

City Manager
Joyce A. Wilson



ADP EXPANSION





ADP Operations in El Paso

- Office locations at 1851 N. Resler on the Westside and 100 Stanton Tower in Downtown.
- ADP previously received an incentive from the City of El Paso for creating 1028 jobs and investing an estimated \$30M in the City of El Paso.
- The incentive ADP received was a 5 year 50% tax abatement of \$487K over the five year term.



Project Summary

- Expansion of existing operations in the City of El Paso (ADP exploring locations in either El Paso, Texas or Augusta, Georgia)
- New employment positions will be created at existing El Paso locations.
- 585 new jobs will be created over the next five years.
- New 100,000 square foot facility will be constructed with a projected capital investment of \$21M.
- ADP anticipates to construct the new facility to compliment the existing one that is located on 1854 N. Resler.



Project Phasing

Phase I (Two years)

- Anticipated job creation at Downtown location necessitates a lease amendment and occupying an additional 12,000 square feet (2012), and a capital investment of \$1M.
- 210 new employment positions would be created in 2013 & 2014 at both El Paso locations.

Phase II (Three years)

- 375 new employment positions would be created during the timeframe of 2015-2017.
- New facility will commence construction in 2015 and finish in 2017.
- All new employment positions would eventually be housed in the new facility.



Chapter 380 Grant Agreement

- ADP anticipates a 5 year (2013-2017) ramp up in order to create the 585 new employment positions and to make the projected \$21M investment for the construction of the new facility.
- The 10 year Grant Period begins the year after ADP meets the job creation requirement and attains the Certificate of Occupancy.
- Using 2012 dollars, the City of El Paso would agree to a 50% tax rebate on an estimated \$1.3M in property taxes collected from the new facility over a 10 year period. Grant payments would total an estimated \$658K.
- To attract and secure this significant expansion, the execution of the Chapter 380 Grant Agreement is requested in order for ADP to plan and budget accordingly for the construction and expansion of its operations in the City of El Paso.



Thank you for your time.

Questions?

Back up materials follow



Company Background

- ADP has had uninterrupted growth since it went public in 1961
- Over \$7 billion in revenues
- 570,000 clients worldwide
- Industry leader in Employer Services, Brokerage Services, Dealer Services, and Claims Services
- One of the largest providers of transaction processing and information based business solutions



Employment and Wage Projections

Job Title	SOC-Title	Hourly Wages	New Hires					5 Year Total
			Year 1	Year 2	Year 3	Year 4	Year 5	
Implementation	Business & Financial Operations	\$20.67	20	20	25	25	25	115
Client Services	Sales & Related	\$17.79	20	20	25	25	25	115
Human Resources	Office & Administrative Support	\$21.63	20	20	20	20	20	100
Data Operations	Business & Financial Operations	\$18.27	38	37	45	45	45	210
Management/ VP	Management	\$33.65	8	7	10	10	10	45
Totals			106	104	125	125	125	585



Investment Schedule

Year			
	Building(s)	Machinery & Equipment	Total Investment
2012	\$ 355,000	\$ 145,000	\$ 500,000
2013	\$ 355,000	\$ 145,000	\$ 500,000
2014			
2015	\$ 10,500,000	\$ 3,500,000	\$ 14,000,000
2016		\$ 3,500,000	\$ 3,500,000
2017		\$ 3,500,000	\$ 3,500,000
Totals	\$ 11,210,000	\$ 10,790,000	\$ 22,000,000 *

* 380 Agreement states that applicant will make a \$21M investment for the new facility



Collected Property Taxes with Inflation

Year	Property with inflation (3%)	Taxes collected by City*
2015	\$ 14,000,000.00	\$ 92,176.56
2016	\$ 17,920,000.00	\$ 117,986.00
2017	\$ 21,537,600.00	\$ 141,804.42
2018	\$ 22,183,728.00	\$ 146,058.37
2019	\$ 22,849,239.84	\$ 150,440.05
2020	\$ 23,534,717.04	\$ 154,953.41
2021	\$ 24,240,758.55	\$ 159,601.74
2022	\$ 24,967,981.30	\$ 164,389.65
2023	\$ 25,717,020.74	\$ 169,321.76
2024	\$ 26,488,531.36	\$ 174,401.34

- Using 2012 City of El Paso Tax Rate of 0.658404



Construction Impacts (2015- 2017)

Construction Impact (2015-2017)			
Impact Type	Employment	Labor Income	Output
Direct Effect	71.2	\$2,537,504.9	\$8,879,722.1
Indirect Effect	16.3	\$721,539.9	\$2,289,843.5
Induced Effect	21.2	\$765,398.3	\$2,470,364.1
Total Effect	108.6	\$4,024,443.1	\$13,639,929.7

- All dollars are in current year (2012) dollars
- Direct Effect- Employment created is temporary (2015-2017); measured in person years- 23.7 per year
- Indirect Effect- jobs, wages and output created by businesses, which provide goods and services essential to the construction of the project
- Induced Effect- spending of the wages and salaries of the direct and indirect employees



Employment Impact 2013

Employment Impact 2013			
Impact Type	Employment	Labor Income	Output
Direct Effect	106.0	\$5,855,160.7	\$28,959,838.5
Indirect Effect	41.1	\$1,456,094.0	\$5,710,489.0
Induced Effect	46.9	\$1,701,696.5	\$5,489,622.4
Total Effect	194.0	\$9,012,951.3	\$40,159,949.9

- All dollars are in current year (2012) dollars
- Indirect Effect- jobs, wages and output created by businesses, which provide goods and services essential to the construction of the project
- Induced Effect- spending of the wages and salaries of the direct and indirect employees



Employment Impact 2014

Employment Impact 2014			
Impact Type	Employment	Labor Income	Output
Direct Effect	210.0	\$11,569,922.96	\$57,373,264.51
Indirect Effect	81.4	\$2,884,714.581	\$11,313,232.9
Induced Effect	92.8	\$3,364,337.967	\$10,853,257.23
Total Effect	384.2	\$17,818,975.51	\$79,539,754.64

- All dollars are in current year (2012) dollars
- Indirect Effect- jobs, wages and output created by businesses, which provide goods and services essential to the construction of the project
- Induced Effect- spending of the wages and salaries of the direct and indirect employees



Employment Impact 2015

Employment Impact 2015			
ImpactType	Employment	LaborIncome	Output
Direct Effect	335	\$18,472,909.71	\$91,524,017.4
Indirect Effect	129.8	\$4,601,806.604	\$18,047,300.14
Induced Effect	148.1	\$5,370,664.61	\$17,325,607.47
Total Effect	613.0	\$28,445,380.93	\$126,896,925

- All dollars are in current year (2012) dollars
- Indirect Effect- jobs, wages and output created by businesses, which provide goods and services essential to the construction of the project
- Induced Effect- spending of the wages and salaries of the direct and indirect employees



Employment Impact 2016

Employment Impact 2016			
ImpactType	Employment	LaborIncome	Output
Direct Effect	460.0	\$25,375,896.46	\$125,674,770
Indirect Effect	178.3	\$6,318,898.627	\$24,781,367
Induced Effect	203.5	\$7,376,991.253	\$23,797,958
Total Effect	841.8	\$39,071,786.34	\$174,254,095

- All dollars are in current year (2012) dollars
- Indirect Effect- jobs, wages and output created by businesses, which provide goods and services essential to the construction of the project
- Induced Effect- spending of the wages and salaries of the direct and indirect employees



Employment Impact 2017

Employment Impact 2017			
ImpactType	Employment	LaborIncome	Output
Direct Effect	585.0	\$32,278,851.98	\$159,825,523.2
Indirect Effect	226.7	\$8,035,990.65	\$31,515,434.63
Induced Effect	258.8	\$9,383,310.645	\$30,270,284.56
Total Effect	1,070.6	\$49,698,153.28	\$221,611,242.4

- All dollars are in current year (2012) dollars
- Indirect Effect- jobs, wages and output created by businesses, which provide goods and services essential to the construction of the project
- Induced Effect- spending of the wages and salaries of the direct and indirect employees



Chapter 380 Grant Qualification Criteria

Meets 380 qualifying standards through Category 1- Quality jobs

- All projects must receive a job credit of 25 or more and this project surpasses this since it scores more than 200 points for each year of the five year period.
- 100% of jobs that will be created will be above the Median County Wage of \$12.36/hr as established in the 380 Agreement.
- In addition, 80 % of employee benefits is paid by the Company.