

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

DEPARTMENT: Library

AGENDA DATE: July 10, 2018

PUBLIC HEARING DATE:

CONTACT PERSON NAME AND PHONE NUMBER: Mark Pumphrey, 915-212-3207

DISTRICT(S) AFFECTED: All.

STRATEGIC GOAL: 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments.

SUBGOAL: 4.2: Create innovative recreational, educational and cultural programs.

SUBJECT:

APPROVE a resolution authorizing the City Manager to sign a License and Use Agreement between the City and Workforce Solutions to allow Workforce Solutions to provide workforce training programs in support of the Main Library's career development services offered to citizens of El Paso. The term of the License and Use Agreement is for a period of 3 years.

BACKGROUND / DISCUSSION: The License and Use Agreement will allow Workforce Solutions Borderplex to provide a job counseling center in the Main Library's Literacy Center. The license is for a period of three-years subject to termination by the Library or by WSB for any reason after a 30-day notice. In exchange for the license, Workforce Solutions Borderplex will be providing \$13,000 worth of equipment and furniture, paying the City a portion of the utility bill (\$5,095.33 per year), and will provide four job counselors and computer workstations to support job employment services in the Main Library's Work PLACE Center. Four WSB job counselors will be available at computer workstations to assist residents of El Paso who are seeking jobs or career advancement. Group job skills training will also be provided by WSB in the Main Library Computer Classroom. WSB will also provide a digital sign to be located outside of the Main Library's Literacy Center to announce job services and related Library Work PLACE Center training and events.

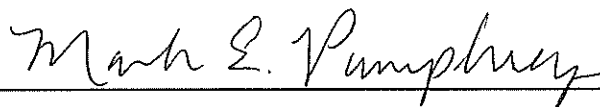
PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one? No.

AMOUNT AND SOURCE OF FUNDING: Workforce Solutions Borderplex will pay the City \$5,095.33 annually to off-set utility costs at the Main Library and contribute furniture and equipment valued at \$13,000. The job counseling center will be self-sustaining with regard to supplies such as copier/printer paper and toner. The City will be responsible for paying utility costs.

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

DEPARTMENT HEAD:



RESOLUTION

WHEREAS, the Main Library, located at 501 North Oregon St., El Paso, Texas 79901, offers career development services to the citizens of El Paso; and

WHEREAS, The City wishes to allow Workforce Solutions Borderplex the use of a portion of the Literary Center, located at the Main Library, to allow Workforce Solutions Borderplex to provide workforce training programs in support of the Main Library's career development services; and

WHEREAS, the use of the Literary Center as provided herein supports the City's strategic goal 4 to enhance El Paso's quality of life through recreational, cultural, and educational environments.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign the License and Use Agreement between the City of El Paso and Workforce Solutions Borderplex, for the use of a portion of the Literary Center located within the Main Library for a period of 3 years for the purpose of allowing Workforce Solutions Borderplex to perform workforce training programs as described in the License and Use Agreement. Further, that the City Manager be authorized to sign any amendments to the License and Use Agreement and consent of assignments to the License and Use Agreement.

THE CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

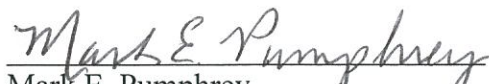
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Omar De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:



Mark E. Pumphrey
Director of Libraries

License and Use Agreement

This License and Use Agreement (“**Agreement**”) is between the City of El Paso (“**City**”), through the City of El Paso Public Library, and Workforce Solutions Borderplex (“**WSB**”).

WHEREAS, WSB is a regional government entity and non-profit organization established to act as an arm of the State of Texas to carry out the governmental functions of workforce development; and

WHEREAS, WSB’s functions include overseeing integrated workforce training, education, job search assistance, job placement, basic skills enhancement, and related services and programs for the area; and

WHEREAS, the Main Library located at 501 North Oregon St., El Paso, TX 79901 (“**Library**”) offers a wide range of educational and career development services to the community including resume and job interview assistance services; and

WHEREAS, the parties wish to enter into this Agreement to provide a license to WSB for the use of Library space to provide workforce training programs.

Now Therefore, the parties agree as follows.

1. Definitions. For purposes of this Agreement, all defined terms appear in **boldface print** when first defined.
2. Term: Unless terminated sooner, this Agreement commences on the Effective Date and expires 3 years from the Effective Date. For purposes of this Agreement, the “**Effective Date**” is the date when the City Manager for the City signs this Agreement.
3. Premises and License. Provided that WSB complies with the use provisions in Section 4 below, the City grants WSB a non-exclusive license to use the “**Premises**” which are described as follows:

The portion of the room known as the Literacy Center located inside the Main Library at 501 North Oregon St., El Paso, TX 79901 further described and outlined in red in Attachment ‘A’. Attachment A is incorporated into this Agreement in full by reference.

Nothing in this Agreement grants any real property interest to WSB nor give rise to any vested right in WSB, WSB’s assigns or successors in interest, none of whom shall have a cause of action for damages upon expiration or termination of the license granted under this Agreement.

4. Permitted Use. The City’s grant of a license to use the Premises as described above is contingent on WSB providing the following services within the Premises. Failure to provide the following services constitutes a material breach of this Agreement. WSB will:

- a. Make available full-time staff, computer equipment, modular furniture, (including an ADA compliant workstation), and resources at the Premises to serve the general public requesting assistance with job searching, job matching, online skills, training, and testing and other employment services.
 - b. Provide the general public with access to local and regional job openings, computer assistance in registering in WSB job search databases, resume writing, and other basic technology services.
 - c. Provide, at a minimum, the following computer equipment and materials at the Premises for establishing a virtual employment services kiosk and allow Library staff access to such equipment for times when WSB staff is not available.
 - i. 8 desktop computers with monitors
 - ii. 1 ADA computer
 - iii. 1 Braille Printer
 - iv. V300 Photo Scanner
 - v. 3 Cisco Phones
 - vi. 1 Xerox Copy Machine
 - vii. 14 Buzzers
 - viii. 10 chairs
 - ix. 3 Desk cubicles
 - d. Conduct pre-scheduled job readiness workshops and courses on-site in the computer lab during regular Library hours.
 - e. Refer the general public to comprehensive employment and skills training programs available at WSB full-service centers, including job readiness workshops
 - f. Provide a minimum of 4 job counselors and computer workstations to support employment assistance services.
 - g. WSB will provide all of the above services described in this Section 4 to the general public free of charge.
5. Access to other Library Areas. WSB and WSB's employees, licensee's and invitees may use the restrooms and common areas located on the first floor of the Library immediately adjacent to the Premises. WSB may use the computer lab adjacent to the Premises ("**Computer Lab**") for the purpose of conducting pre-scheduled job readiness workshops and courses during regular Library hours. WSB will coordinate with Library staff for the availability of the computer lab prior to use.
6. WSB's Obligations. WSB agrees to the following:
- a. WSB accepts the Premises in their present condition "As Is". The City expressly disclaims any warranties as to the condition or suitability of the Premises.

- b. WSB will obey all laws relating to WSB's use of the Premises and any common areas in the main Library building.
 - c. WSB will provide a digital sign indicating the presence of staff, availability hours, and description of services provided by WSB. WSB will obtain the approval of the design of the sign from the Director of the Library (the "**Director**") prior to installation.
 - d. WSB will maintain the Premises in a good and clean condition.
 - e. WSB will follow and implement use of Library rules within the Premises at all times. WSB will not allow any employee, agent, licensee, or invitee to use the Premises in conflict with the use of Library rules.
 - f. WSB will allow the City to enter the Premises at the City's discretion in order to inspect the Premises or perform repairs to the Premises.
 - g. WSB will pay the costs of repairing any damage to the Premises or Library caused by WSB or WSB employees, agents, contractors, officers, invitees, or licensees. WSB will pay all costs under this provision within 30 calendar days of receiving an invoice from the City.
 - h. WSB will submit to the City in writing any request for repairs of the Premises. The City will be responsible for the cost of repairs for any damage to the Premises not covered under Section 6(g) above.
 - i. WSB will allow Library users and Library employees to enter the Premises to access the adjacent computer rooms. WSB will not lock, nor install any locking devices on, the door allowing entrance to the Premises.
 - j. WSB will not use the Premises for any purpose other than the permitted uses described in this Agreement above.
 - k. WSB will not create any nuisances nor interfere with any operations of the Library.
 - l. WSB will not create or allow any waste on the Premises.
 - m. WSB will allow Library staff to access WSB equipment in the Premises during the weekends for purposes of providing to the public the same services provided by WSB under Section 4 of this Agreement.
7. Cost Sharing: Within 30 calendar days of the Effective Date, WSB will provide a one-time contribution of \$13,000 worth of equipment such as computers, software, and modular furniture as listed under Section 4(c) of this Agreement (the "**Equipment**"). WSB will also provide proof that the Equipment has been fully paid for. WSB will not remove the

Equipment from the Premises. WSB agrees that upon expiration or termination of this Agreement, the Equipment will automatically become the sole and exclusive property of the City. WSB will execute any documents required by the City to evidence the City's ownership of the Equipment. The City will provide electricity, internet, and phone services to WSB. Regardless of the actual amount of utility costs, WSB will pay the City an annual payment of \$5,095.33 (the "Utility Share") to help defray utility costs incurred by the City. WSB is not entitled to any refunds of the Utility Share regardless of the actual cost of utilities incurred by the City. WSB will pay the Utility Share to the City at the start of each calendar year. The WSB will provide its own paper and copy machine.

8. Improvements: WSB may perform non-permanent free standing improvements on the Premises provided that WSB obtains the prior written approval of the Library Director. Any other improvements must be approved in advanced by the City's Capital Improvement Department. The City retains absolute discretion as to the improvements allowed under this Agreement. The City Engineer or designee is authorized to provide written approvals as required under this Section. WSB will comply with all ordinances and permit requirements regarding any improvements done to the Premises by WSB under this Agreement.
9. Insurance.
 - a. WSB will obtain Commercial General Liability Insurance in a written occurrence form including coverage at a minimum for (1) premises/operations liability, (2) broad-form property damage, and (3) personal/advertising injury. The minimum amounts of liability must be \$1,000,000 for bodily injury and \$1,000,000 for property damage per occurrence.
 - b. WSB shall also obtain Workers' Compensation in accordance with statutory requirements.
 - c. WSB will name the City and the City's officials, employees, agents, and contractors as additional insured.
 - d. All insurance policies under this Agreement must provide that the insurance cannot be canceled or the amount of coverage changed without 30 calendar day notice to the City, or without 10 calendar day prior written notice as to non-payment of insurance policy premiums.
 - e. All insurance policies must provide a waiver of subrogation in favor of the City.
10. Indemnification. **WSB SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY AND THE CITY'S OFFICERS, EMPLOYEES, AND AGENTS AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY OR INDIRECTLY TO THE**

ACTS OR OMISSIONS OF WSB OR WSB'S INVITEES, LICENSEES, AGENTS, CONTRACTORS, EMPLOYEES, OR OFFICERS.

11. Release. WSB agrees that neither the City nor the El Paso Public Library are responsible for any loss or damage to WSB's property while such property is located on the Premises and/or the Library regardless of whether such property is used by the City, the City's employees, officers, or agents. To the extent allowed by law, WSB releases the City, the City's officers, agents, and employees from any and all claims of property damage, personal injury, and/or death that is caused by the negligence of the City, or the City's officers, agents, or employees during WSB's use of the Premises and/or Library.
12. Compliance with Laws. Both parties agree to:
- a. Comply with Title VI of the Civil Rights Act of 1964 (PL 88.352), which prohibits discrimination based on race, color, or national origin in programs and activities that receive federal financial assistance.
 - b. Comply with Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794), which prohibits discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance.
 - c. Comply with the requirements of the Americans with Disabilities Act of 1990, PL 101-336, 101 Congress, 2nd Session, 104 Stat. 317 (July 26, 1990).
 - d. Comply with the requirements of the Texas Revised Civil Statute 44196b-4, Sections 5.03-5.04, which outlines the workplace and confidentiality guidelines regarding AIDS and HIV.
13. Termination. Either party may terminate this Agreement for any reason following a 30 calendar day written notification.
14. Notices. All notices under this Agreement are deemed to be received as of the postmark date on the notice. The parties will send all notifications under this Agreement via postmarked certified mail at the following addresses:

CITY:	City of El Paso Public Library Attn: Mark Pumphrey, Director 501 N. Oregon St. El Paso, TX. 79901
COPY TO:	City of El Paso Attn: Tomás González, City Manager P. O. Box 1890 El Paso, TX. 79901-1890

WSB: Leila Melendez
Chief Operating Officer
300 E. Main St., Suite 800
El Paso, TX 79901
E-mail: leila.melendez@borderplexjobs.com

15. Governing Law and Venue. This Agreement is governed by Texas law. The venue for any disputes regarding this Agreement lies exclusively in El Paso County, Texas.
16. No Joint Enterprise. This Agreement does not create any joint enterprise between the parties.
17. Independent Parties. Nothing in this agreement creates an employer/employee relationship or allows any party to this Agreement the right to exercise control or direction over the other party.
18. No Third Party Beneficiaries. This Agreement does not confer or create any rights or obligations to any third parties.
19. No Personal Liability. This Agreement does not create any personal liability on the part of any employee, officer, or agent of the City.
20. No Assignment: WSB will not assign this Agreement or the license granted under this Agreement without the prior express written consent of the City.
21. Governmental Function. The parties expressly agree that, in all thing relating to this Agreement, the City is performing a governmental function, as defined by the Texas Tort Claims Act.
22. Headings. The paragraph or section headings contained in this Agreement are for reference purpose sonly and do not control the meaning or interpretation of this Agreement.
23. Assignment. WSB will not assign any obligations or rights under this Agreement without the prior express written consent of the City.
24. No Waiver. Failure of either party to enforce any provision of this Agreement does not constitute a waiver of rights.
25. Severability. If any provision of this Agreement is declared unenforceable, then all other provision of this Agreement will remain in effect.
26. Attachments. All attachments referenced in this Agreement are incorporated in full to this Agreement by reference.
27. The person signing this Agreement on behalf of WSB represents and warrants that such person has authority to enter into this Agreement on behalf of WSB.

28. Complete Agreement. This Agreement constitutes the entire agreement between the parties.

CITY OF EL PASO

Tommy González
City Manager
Date Signed: _____

ATTEST:

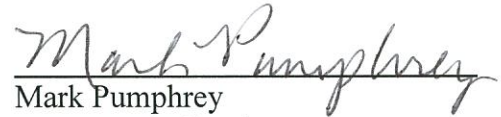
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Omar A. De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:



Mark Pumphrey
Director of Libraries

(Acknowledgement)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This Instrument was acknowledged before me on the ____ day of _____, 2018, by TOMAS GONZALEZ, as City Manager of the City of El Paso, a municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

Notary's Commission Expires:

Notary's Name (printed)

(Workforce Solutions Borderplex Signature on following page)

WORKFORCE SOLUTIONS BORDERPLEX:

Joyce A. Wilson
Name: Joyce A. Wilson
Title: CEO

(Acknowledgement)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

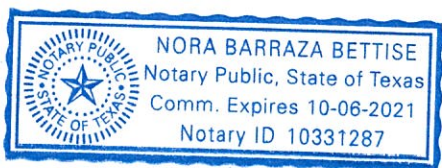
This Instrument was acknowledged before me on the 2 day of July, 2018,
by Joyce A. Wilson, as CEO of the Workforce Solutions
Borderplex, on behalf of Workforce Solutions Borderplex.

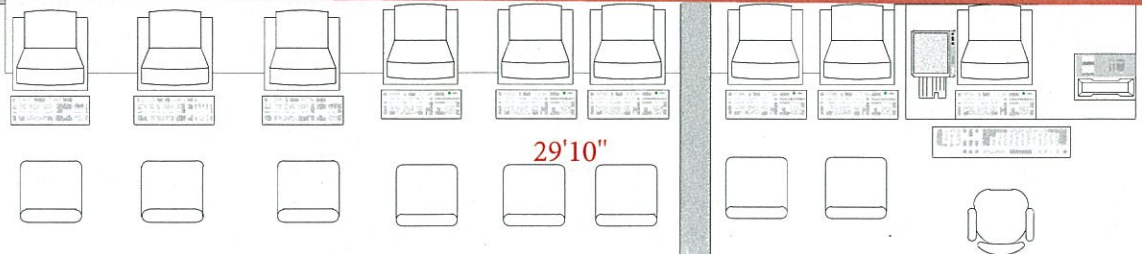
Nora B. Bettise
Notary Public, State of Texas

Notary's Commission Expires:

Nora Barraza Bettise
Notary's Name (printed)

10 / 6 / 2021



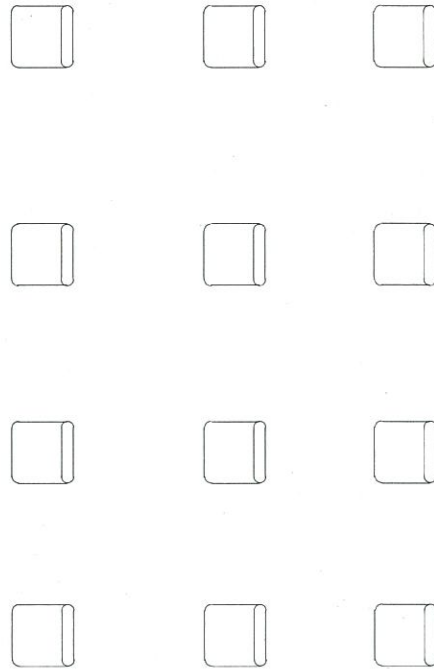


Resource Computers

ADA Working
Station

ATTACHMENT "A"

23'11"

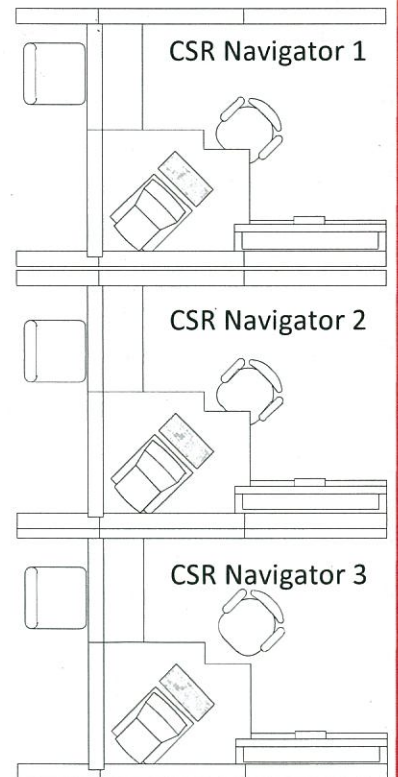


Waiting Area

28'11"

15'11"

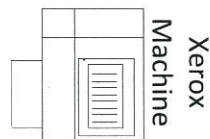
5'



CSR Navigator 1

CSR Navigator 2

CSR Navigator 3



Xerox
Machine

13'11"

17-1024-090 | 777376

OAR

Library Resource Area