

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

**DEPARTMENT:** Economic and International Development Department

**AGENDA DATE:** August 21, 2018

**CONTACT PERSON/PH.:** Jessica Herrera, Director, Economic and International Development 915-212-1624  
Bruce D. Collins, Director, Purchasing & Strategic Sourcing 915-212-1181

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No.1 Create an Environment Conducive to Strong, Sustainable, Economic Development

**SUBJECT:**

That the City Manager be authorize to sign a Professional and Planning Services Agreement between the City of El Paso and David Pettit Economic Development, LLC. ("Contractor"), for Contractor to provide professional and planning services related to Tax Increment Reinvestment Zones and Public Improvement Districts within the City of El Paso, for a term of twenty four (24) months for an amount not to exceed Two Hundred Eighty Thousand and no/100 Dollars (\$280,000.00), including reimbursements for expenses not to exceed Seven Thousand Five Hundred and no/100 Dollars.

**BACKGROUND / DISCUSSION:**

On December 2017, the city entered into an agreement with David Pettit Economic Development, LLC. to perform professional and planning services for projects located in El Paso. Now the City desires to execute a new agreement with a duration of 24 months, capped at \$280,000 payable only after each project completion.

The Consultant will supply services to further projects, create, review and maintain Tax Increment Reinvestment Zones and Public Improvement Districts within the City of El Paso.

**SELECTION SUMMARY:**

N/A

**PROTEST**

☒ No protest received for this requirement.

☐ Protest received.

**COUNCIL REPRESENTATIVE BRIEFING:**

Was a briefing provided? ☒ Yes or ☐ No

**PRIOR COUNCIL ACTION:**

None.

**AMOUNT AND SOURCE OF FUNDING:**

Estimated \$280,000.00.

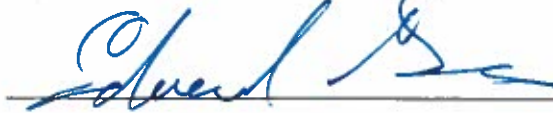
Economic Development outside Contracts **Funding String:** 522150-480-1000-48010

**BOARD / COMMISSION ACTION:**

N/A

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

*For*  
**DEPARTMENT HEAD:**

A handwritten signature in blue ink, appearing to be "Edward S.", is written over a horizontal line.

## RESOLUTION

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

That the City Manager be authorize to sign a Professional and Planning Services Agreement between the City of El Paso and David Pettit Economic Development, LLC. ("Contractor"), for Contractor to provide professional and planning services related to Tax Increment Reinvestment Zones and Public Improvement Districts within the City of El Paso, for a term of twenty four (24) months for an amount not to exceed Two Hundred Eighty Thousand and no/100 Dollars (\$280,000.00), including reimbursements for expenses not to exceed Seven Thousand Five Hundred and no/100 Dollars (\$7,500.00).

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2018.

THE CITY OF EL PASO

ATTEST:

\_\_\_\_\_  
Dee Margo,  
Mayor

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

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

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ar. Jessica Herrera, Director  
Economic Development Department

  
\_\_\_\_\_  
Bruce D. Collins, Director  
Purchasing and Strategic Sourcing



4. INVOICES AND PAYMENTS. All invoices will be paid by the City pursuant to the Section 2251 of the Texas Government Code. The City will only pay for services performed in accordance with the agreed compensation.
5. FRINGE BENEFITS. The City shall not provide fringe benefits to the Contractor.
6. LOCATION OF PERFORMANCE. The Contractor shall perform the Consulting Services in the City and County of El Paso, Texas or such other place(s) as may be necessary to fulfill the terms of this Contract.
7. INDEPENDENT CONTRACTOR RELATIONSHIP. Nothing herein shall be construed as creating a relationship of employer and employee between the parties hereto. The City shall not be subject to any obligations or liabilities of the Contractor incurred in its performance under this Contract.
8. INSURANCE. Contractor will provide proof of professional liability insurance (including errors and omissions) with minimum limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate and excess/umbrella liability of \$1,000,000 per occurrence and \$2,000,000 in the aggregate to client. Additionally, Contractor shall carry the following insurance coverages:
  - (a) Worker's compensation insurance at the statutory limits and employer's liability insurance, with minimum limits of \$1,000,000.00/\$1,000,000.00/\$1,000,000.00; and
  - (b) Comprehensive general liability insurance, with minimum limits of \$2,000,000.00 each occurrence and \$4,000,000.00 in aggregate; and
  - (c) Comprehensive automobile liability insurance, with minimum limits of \$1,000,000.00 combined single limit each occurrence.

Contractor will provide concurrently with the execution of this agreement is providing, to City a certificate of insurance issued to Client evidencing the foregoing insurance coverages and evidencing that Client and Client's lender, if any, are additional insured parties with respect to the insurance policies referred to in the foregoing subparagraphs (b) and (c).

9. INDEMNIFICATION OF THE CITY. BY ACCEPTANCE OF THIS CONTRACT, THE CONTRACTOR AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, THEIR DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES, FROM ANY AND ALL CLAIMS WHETHER FOR INJURIES OR DAMAGES TO PERSONS OR PROPERTY (INCLUDING DEATH), OR ANY OTHER TYPE OF CLAIM ALLEGED TO HAVE BEEN RECEIVED OR

**SUFFERED AS A RESULT OF OR ARISING OUT OF THE OPERATIONS OF THE CONTRACTOR OR ITS AGENTS, SUBCONSULTANTS, CONSULTANTS AND EMPLOYEES, IN THE PERFORMANCE OF THIS CONTRACT.**

10. **LAW GOVERNING CONTRACT AND VENUE.** For purposes of determining the place of the Contract and the law governing the same, it is agreed that the Contract is entered into in the City and County of El Paso, State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the courts of El Paso County, Texas.
11. **TERMINATION.** This Contract shall terminate at the end of the Contract Period or as otherwise agreed upon by the parties hereto in writing. Either party may terminate this Contract without cause after thirty (10) days written notice to the other party of the intention to terminate, or at any time by mutual agreement of the parties. Should the City have cause to terminate this Contract, this Contract may be terminated immediately upon notification to the Contractor of the cause for termination.
12. **NOTICE.** Any notices required under this Contract shall be sufficient if sent by certified mail, return receipt requested, postage prepaid, to the City or the Contractor, as the case may be, at the following addresses:  
  
THE CITY:                   Tomás González, City Manager  
                                  P.O. Box 1890  
                                  El Paso, Texas 79950-1890  
  
COPY TO:                   Economic and International Development Department  
                                  P.O. Box 1890  
                                  El Paso, Texas 79950-1890  
  
THE CONTRACTOR:       David Pettit Economic Development  
                                  306 West 7<sup>th</sup> Ste. 1025  
                                  Fort Worth, TX 76102
13. **COMPLETE AGREEMENT.** This Contract constitutes and expresses the entire agreement between the parties in reference to the Consulting Services. In the event that a dispute arises between the parties, this Contract will govern the agreement of the parties.

*(Signatures page to follow)*

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO ) PROFESSIONAL AND PLANNING SERVICES  
 AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 2018.

**Tomás González, City Manager**

**APPROVED AS TO CONTENT:**

for  Jessica Herrera, Director  
Economic & International Development

  
Bruce D. Collins, Director  
Purchasing and Strategic Sourcing

**CONTRACTOR:  
DAVID PETTIT ECONOMIC  
DEVELOPMENT, LLC.**

16-1007-1848.002 /PL#813151  
Professional and Planning Services Contract  
David Pettit Econ Dev LLC/SMC





**Exhibit "A"**  
**SCOPE OF SERVICES**

David Pettit Economic Development, LLC ("DPED") is pleased to provide this proposal for economic development professional services relating to the Tax Increment Reinvestment Zones ("TIRZ"), Public Improvement Districts (PID), and ongoing hourly professional services in the City of El Paso, Texas ("City").

#### The Scope

It is our understanding that the City of El Paso, Texas is seeking the following services:

- Creation or Expansion of TIRZs
- Creation of a PID Policy
- Creation or Expansion of PIDs
- Professional Consulting Services Related to Economic Development

#### The Assignment

Our work under this proposal would include providing professional economic development services relating to the creation or expansion of TIRZs, the creation of a PID policy, and the creation or expansion of PIDs.

Additionally, DPED will provide ongoing professional services related to economic development within the City of El Paso on an hourly basis.

#### The Team

We proposed working in a team organized as follows:

- You will be our point of contact and will provide overall direction to our team. You may also include other members of City staff with which we will meet regularly to review our progress and to get input and direction on our work.
- At this time we do not anticipate the need for any additional consultants to accomplish the work described in this proposal.

#### TIRZ Statutory Requirements

Chapter 311 of the Texas Tax Code outlines the various procedures for creating a TIRZ. The designation TIRZ ordinance is approved by the governing body of the municipality and establishes four key elements, including:

- Boundary;
- Term;
- TIRZ Board; and
- Preliminary project and financing plan.

Before adopting an ordinance designating the reinvestment zone, the governing body of the municipality must hold a public hearing on the creation of the zone and publish notice of the hearing not later than the seventh day before the public hearing. A final project and financing plan is subsequently approved by the TIRZ Board and then by the governing body of the municipality.

#### TIRZ Scope of Services

Based on our conversations and our experience on previous projects, we propose the following scope of services for each potential TIRZ. Our proposed scope of services is divided into separate tasks, each providing a description of the work to be performed and the key products resulting from the task.

##### Task 1

###### District Review

Our first step would be to collect and analyze available information in the proposed TIRZ. This includes available development data; existing planning documents such as the comprehensive plan, land use plan, thoroughfare plan; physical information such as existing zoning and land use, existing and planned infrastructure, and topography; and property data such as ownership and tax values.

##### Task 2

###### Data Collection and Analysis

Based upon parcel data provided by the City, DPED would provide a geographic information system (GIS) database of existing values for land and improvements, ownership data, and current land use

information. The database and maps will provide the baseline data for the analysis. Key products of this task would include a TIRZ database and accompanying maps in digital and hard copy formats.

### Task 3

#### Taxable Value Analysis

A multi-year historic taxable value review of similar developments would be conducted to establish conservative assumptions of future taxable value for each parcel in the proposed zone. We would also develop projections for future land uses, and timing of proposed developments. This task will be the basis for developing a spreadsheet model of potential TIRZ increments, given a reasonable range of development assumptions and taxable values. Key products of this task would include a spreadsheet model on a parcel by parcel basis with projections based upon the historical taxable value review, development projections and reasonable timing expectations.

### Task 4

#### Develop TIRZ Cash Flow Model

Based on the anticipated land uses and projections, DPED would develop a draft financing cash flow model (and supporting spreadsheets) for a 15, 20, and 30-year time period. This model will allow the City, consultants and others to underwrite the proposed developments and test various scenarios for the eventual financing plan. Key products of this task would include excel spreadsheets of TIRZ Cash Flow Models with macros established for growth and development assumptions.

### Task 5

#### Prepare TIRZ Project and Financing Plan

DPED would then develop the Finance Plan, Project Plans, and Detailed Description of TIRZ, and other exhibits required for local government review and approval per the state legislative requirements. This work includes the written, graphic, and PowerPoint materials and exhibits, as well as support of the process. Backup materials such as spreadsheets and databases will also be products that support the plans. Key products would include a preliminary TIRZ Project and Financing Plan comprised of a legal description of the zone, proposed TIRZ projects, estimated project costs, term of the zone and a tax increment analysis.

### Task 6

#### TIRZ Documentation Support

DPED will provide assistance with drafting necessary documents for creating the TIRZ including: 1) public hearing notices; 2) resolutions; 3) ordinances; and 4) participation agreements. This can be a time consuming process for City staff, however DPED's extensive experience in drafting these documents should help streamline the preparation of materials necessary for City Council consideration. This task would include assistance in creating and appointing the appropriate TIRZ board per the TIRZ creation ordinance.

### **PID Statutory Requirements**

Public Improvement Districts ("PIDs"), per the Texas Local Government Code Chapter 372, provide the City an economic development tool that permits the financing of qualified public improvement costs that confers a special benefit on a definable part of the City, including both its corporate limits and its extra-territorial jurisdiction. A PID can finance capital costs and fund supplemental services to meet community needs which could not otherwise be constructed or provided. The costs of the capital improvements and/or supplemental services are paid entirely by property owners within the PID who receive special benefits from the capital improvements or services. A PID may only be used to pay for public improvements, all other expenditures not related to public improvements may not be reimbursed.

### **PID Policy Scope of Services**

Based on our conversations and our experience on previous projects, we propose the following scope of services for the PID policy. Our proposed scope of services is divided into separate tasks, each providing a description of the work to be performed and the key products resulting from the task.

#### **Task 1**

##### **Develop Policy Content**

DPED would work directly with the City staff, the City's financial advisors and bond counsel to identify and acquire the needed data to complete a thorough analysis of a proposed PID policy content consistent with Chapter 372 of the Texas Local Government Code.

#### **Task 2**

##### **Prepare PID Policy**

DPED would then develop a draft PID Policy, and other exhibits required for local government review and approval. The process would outline the appropriate use of a PID, what types of public and third-party financing are available, and delineate the preferred approach given the level of risk associated with each public financing mechanism and the type of project being considered by the City. This work products includes the draft PID Policy document, written, graphic, and PowerPoint materials and exhibits, as well as support of the process.

#### **Task 3**

##### **Facilitate Review and Consideration of the Proposed PID Policy**

DPED would facilitate meetings and presentations with the City, which would include supporting meetings, work sessions, and briefings. Key products of this task would include attendance and support of City staff at all required meetings in the review and approval process of the PID Policy.

### **PID Creation and Amendment Scope of Services**

Based on our conversations and our experience on previous projects, we propose the following scope of services for each potential PID creation and/or amendment. Our proposed scope of services is divided into separate tasks, each providing a description of the work to be performed and the key products resulting from the task.

#### **Task 1**

##### **Data Assembly**

DPED would work directly with the City and property owner representatives to identify and acquire the needed data to complete a thorough analysis of the proposed financing structure for the planned development ("Project"). We will coordinate documentation between the various parties and develop an achievable timeline with key dates and implementation steps to ensure the project moves forward in a timely manner. This task would also include documenting key elements of the private development and public/private partnership.

## Task 2

### PID's Advisability Analysis

Following the completion of the Data Assembly Task, our team will begin the process of developing an analysis of the PID's Advisability. This will include a description of the Project's public improvements, estimated costs for the improvements as provided by property owner representatives, the boundaries of the PID, the preferred method of assessment for the Debt Service portions of the assessment, an overview of the apportionment of costs between the District and the Municipality, and all other exhibits required for local government review per the state legislative requirements.

## Task 3

### Facilitate Review and Consideration of the Proposed PID

DPED would facilitate meetings and presentations with the City, property owner representatives, and other parties involved in the process. This will include supporting meetings, work sessions, briefings, commission meetings, and hearings. This will be a labor-intensive component of the process; however it is vital to a successful partnership. Key products of this task would include attendance and support of City staff at all required meetings in the review and approval process.

## Task 4

### Assist with Public/Private Development Agreements and Resolution Documents

DPED will develop the draft documents required for the implementation of a PID as described in Chapter 372 of the Texas Local Government Code, for review by legal representatives of the City and the property owner representatives. These draft documents would include the PID Petitions, Public Hearing Notices, PID Improvement Orders, PID Authorization Notices and Assessment Orders.

## Task 5

### Service and Assessment Plan & Assessment Roll

Following the creation of the PID by the City Council, DPED will create a service and assessment plan that defines the annual indebtedness of the PID and the projected costs for improvements as well as an overview of how the City will apportion the cost of an improvement to be assessed against property within the improvement districts. Lastly, we will develop an assessment roll that states the assessment against each parcel of land in the district, as determined by the method of assessment in the Service and Assessment Plan.

**Exhibit "B"**  
**COMPENSATION**

## **Fee for Services**

### **TIRZ Scope of Services**

Our fee for services would be a lump sum fee of \$25,000 per creation or expansion of each TIRZ district. Each TIRZ assignment would be initiated by DPED through separate written authorization by City.

### **PID Policy Scope of Services**

Our fee for services would be a lump sum fee of \$40,000 for the creation of the PID policy.

### **PID Creation and Amendment Scope of Services**

Our fee for services would be a lump sum fee of \$30,000 for the creation or expansion of each PID district. Each PID assignment would be initiated by DPED through separate written authorization by City.

### **Professional consulting services related to Economic Development**

Our fee for services would be charged on an hour basis, per the following rates and will be invoiced on a monthly basis.

<u>Classification</u>	<u>Hourly Billing Rate</u>
David Pettit	\$275.00
Project Manager	\$200.00
Project Specialist	\$120.00
Planning Intern	\$100.00
Administrative	\$80.00

Reimbursable expenses not to exceed \$7,500 would be charged to include out-of-pocket expenses incurred in the interest of the projects at actual costs. All reimbursable expenses shall be paid in compliance with City policy.

Total fees for the defined scope above shall not exceed \$280,000, which includes \$7,500 in reimbursable expenses during the 24-month term of the contract, unless otherwise authorized by separate City authorization through a written amendment.

### **Changes of Scope and Additional Services**

Minor additions to our scope will be treated as Additional Services. Work on Additional Services will not begin until authorized in writing by the City through a written amendment.

### **Additional Services and Rates for Hourly Services**

Additional Services shall be billed on an hourly basis unless a fixed fee or other method of compensation is mutually agreed upon. Our current hourly rates are:

<u>Classification</u>	<u>Hourly Billing Rate</u>
David Pettit	\$275.00
Project Manager	\$200.00
Project Specialist	\$120.00
Planning Intern	\$100.00
Administrative	\$80.00

The parties understand that a written amendment would be executed for Contractor to provide the Additional Services.