

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

DEPARTMENT: Economic and International Development Department
AGENDA DATE: August 23, 2016 Regular Agenda
CONTACT PERSON/PH. No.: Cary Westin, Managing Director 915-212-1614
DISTRICT(S) AFFECTED: District 2

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

That the City Manager be authorized to sign the First Amendment to the Economic Development Program Grant Agreement between the City of El Paso (the "City") and EWM PI,LLC (the "Applicant") allowing the applicant and City to accept a Defense Economic Adjustment Assistance Grant from the Office of the Governor, Texas Military Preparedness Commission, furthering the Capacity Expansion of the Kay Bailey Hutchinson Desalination Plant, subject to the terms and conditions in the First Amendment to the Economic Development Program Grant Agreement. [Economic and International Development, Cary Westin 915-212-1614]

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

The company will be applying for the Defense Economic Adjustment Assistance Grant (DEAAG) rebate to help with the purchase of specialized equipment associated with the construction of the development. The rebate amount is dependent upon the City receiving reimbursement from the Office of the Governor; maximum rebate is \$2,000,000. By August 31, 2016, applicant must submit to the City the corresponding invoices and proof of payment for its non-local specialized equipment. In addition, equipment must be used in the construction of the water production and chemical manufacturing plant. The City will request reimbursement from the Office of the Governor by submitting the respective invoices and proof of payment in accordance with the DEAAG agreement and within 30 days of receipt from applicant. If City does not receive reimbursement from the Office of the Governor, applicant will have no recourse against the city. In order for the City to reimburse the \$2,000,000 grant to the applicant an amendment to the Chapter 380 agreement is necessary. No other changes will be done to the Chapter 380 Agreement.

The applicant is proposing to construct a new facility in El Paso located at 3640 Global Reach Drive to operate a water production and chemical manufacturing plant. The company will be creating at least 10 new full-time jobs and will invest \$36,500,000 in real and personal property.

PRIOR COUNCIL ACTION:

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

Yes, Council passed a Chapter 380 Agreement on October 15, 2015

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

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

DEPARTMENT HEAD: _____

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RESOLUTION

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

That the City Manager be authorized to sign the First Amendment to the Economic Development Program Grant Agreement between the City of El Paso (the "City") and EWM P1, LLC (the "Applicant") allowing the applicant and City to accept a Defense Economic Adjustment Assistance Grant from the Office of the Governor, Texas Military Preparedness Commission, furthering the Capacity Expansion of the Kay Bailey Hutchinson Desalination Plant, subject to the terms and conditions in the First Amendment to the Economic Development Program Grant Agreement.

APPROVED this ____ day of _____, 2016.

CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Juan S. González
Assistant City Attorney

APPROVED AS TO CONTENT:

Cary S. Westin, Managing Director
Economic & International Development

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STATE OF TEXAS)
)
)
)
COUNTY OF EL PASO) FIRST AMENDMENT TO
) ECONOMIC DEVELOPMENT
) PROGRAM GRANT AGREEMENT

The First Amendment to the Economic Development Program Grant Agreement (this "Amendment") is made this ___ day of _____, 2016, by and between the CITY OF EL PASO (the "City"), a Texas home rule municipal corporation, and EWM P1, LLC (the "Applicant"), a Texas Limited Liability Company.

WHEREAS, on October 13, 2015, the City and Applicant entered into an Economic Development Program Grant Agreement (the "Agreement") a copy of which is attached and labeled as Exhibit "A", for the purposes of promoting local economic development and stimulating business and commercial activity within the City of El Paso; and

WHEREAS, Applicant requested the economic development grant from for the purpose of constructing a water production and chemical manufacturing plant which, if so developed, will stimulate increased economic development in the City; and

WHEREAS, on April 4, 2016 the City was awarded a Defense Economic Adjustment Assistance Grant ("DEAAG") from the Office of the Governor (the "OOG"), Texas Military Preparedness Commission to support the Capacity Expansion of the Kay Bailey Hutchinson Desalination Plant; and

WHEREAS, the October 13, 2015 Grant Agreement with the Applicant and the associated development is the basis of the Capacity Expansion of the Kay Bailey Hutchinson Desalination Plant contemplated in the DEEAG award; and

WHEREAS, the City and Applicant now desire to amend the Agreement to allow the City and Applicant to accept a Defense Economic Adjustment Assistance Grant from the OOG, Texas Military Preparedness Commission.

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:

1. Section 1., page 2 is hereby amended to add the following Subsection; reading as follows:

E1. **DEAAG Grant Rebate.** The words "DEAAG Grant Rebate" mean a rebate associated with Applicant's purchase of specialized equipment associated with the construction of the Development. This Rebate is contingent upon the City receiving a reimbursement from the OOG. For the purposes of this Agreement, the maximum DEAAG Grant Rebate is Two Million and 00/100 dollars (\$2,000,000.00).

2. Section 1, page 3, Subsection L. **Grant.** is hereby amended to read as follows:

L. **Grant.** The word "Grant" means each annual payment to APPLICANT under the terms of this Agreement computed as the sum of the following rebates as applicable (i) Property Tax Rebate, (ii) Construction Materials Sales Tax Rebate, and (iii) DEAAG Grant Rebate.

3. Section 3., page 5 is hereby amended to add the following Subsection; reading as follows:

E. **DEAAG Grant Rebate.** On or by August 31, 2016; Applicant will submit to the City invoice(s) and proof of payment(s) evidencing Applicant's expenditure toward the purchase of specialized equipment that cannot be sourced locally and which will be used in the construction of the water production and chemical manufacturing plant. City will then submit the invoice(s) and proof of payment(s) to the OOG; requesting a reimbursement payment in accordance with the Agreement For The DEAAG Between The Office of the Governor, Texas Military Preparedness Commission and the City (The "DEAAG Agreement") to be executed by the City and the OOG. Applicant agrees to support the City in its compliance with the terms of the DEAAG Agreement. Should the OOG require additional documentation, information, or reporting requirements (one-time or on-going); Applicant will promptly provide the requested materials to the City. If the City does not receive the reimbursement from the OOG; Applicant will have no recourse against the City.

4. Section 4., page 6 is hereby amended to add the following Subsection; reading as follows:

E1. Within 30 days of receipt from Applicant of the information described in Section 3. E.; City will submit to the OOG a request for reimbursement in conformance with the DEAAG Agreement. City will work with Applicant to ensure compliance with the terms and provisions of the DEAAG Agreement. City will rebate to Applicant to total amount of reimbursement received from the OOG within 15 days of receipt by the City.

5. Section 4., page 6 Subsection F. is hereby amended to read as follows:

F. Under no circumstances shall the total aggregate of Grant payments, excluding the DEAAG Grant Rebate, exceed the lesser of: (1) Two Million, Two Hundred Eighty-Four Thousand, Two Hundred Sixty three and 93/100 dollars (\$2,284,263.93), or (2) the total value of the City's portion of the incremental ad valorem property tax revenue generated by the subject property in the Development above the Base Year Value for the Grant Period and payable from the City's general revenue fund.

6. Except as amended herein, the Agreement between the City and Applicant shall remain in full force and effect.

[Signatures Begin on the Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2016.

CITY OF EL PASO, TEXAS

Tomás González
City Manager

APPROVED AS TO FORM:

Juan S. González
Assistant City Attorney

APPROVED AS TO CONTENT:

Cary S. Westin, Managing Director
Economic and International Development

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the ____ day of _____, 2016, by Tomás González, as City Manager of the City of El Paso, Texas (CITY).

Notary Public, State of Texas

My Commission Expires:

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

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Exhibit A

**[Economic Development Program Grant Agreement
dated October 13, 2015]**