

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

DEPARTMENT: Economic & International Development Department

AGENDA DATE: CCA Regular, November 12, 2019

CONTACT PERSON/PHONE: Jessica Herrera, Director, (915) 212-1624

DISTRICT(S) AFFECTED: All

SUBJECT:

That the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement ("Agreement") between the City of El Paso (the "City") and Pioneers 21 (the "Applicant"). The City will provide Applicant with grant payments for costs incurred in operating a technology business incubator in downtown El Paso that will support local entrepreneurship and innovation development and accelerate economic development efforts in the City. The total amount of grant payments paid to the Applicant shall not exceed \$500,000.00 over the term of the Agreement. The Applicant's eligibility for the grant payments shall be limited to two years. The City shall review the Applicant's eligibility for Grant Payments on a quarterly and annual basis. (All) [Economic & International Development Department, Jessica Herrera, Director, (915) 212-1624]

BACKGROUND/DISCUSSION:

Pioneers 21 provides incubation and related business development services to appropriate emerging technology and high-growth companies. Upon satisfying all contract performance and output metrics, the Applicant will be eligible to receive the following incentive:

- Incubator Grant (Two-Year): Capped at \$500,000.00 (\$250,000.00 per year). Eligibility for Grant Payments reviewed on a quarterly and annual basis. Monthly Grant disbursements.

The total proposed incentive is not to exceed \$500,000.00

PRIOR COUNCIL ACTION:

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

No.

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?

Impact fund

BOARD/COMMISSION ACTION:

Enter appropriate comments or N/A.

N/A

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

DEPARTMENT HEAD: For: [Signature]

RESOLUTION

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

That the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement ("Agreement") between the City of El Paso (the "City") and Pioneers 21 (the "Applicant"). The City will provide Applicant with grant payments for costs incurred in operating a technology business incubator in downtown El Paso that will support local entrepreneurship and innovation development and accelerate economic development efforts in the City. The total amount of grant payments paid to the Applicant shall not exceed \$500,000.00 over the term of the Agreement. The Applicant's eligibility for the grant payments shall be limited to two years. The City shall review the Applicant's eligibility for Grant Payments on a quarterly and annual basis.

APPROVED this _____ day of _____, 20_____.

CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Roberta Brito
Assistant City Attorney

APPROVED AS TO CONTENT:



For: Jessica Herrera, Director
Economic & Int'l Development

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 **PIONEERS 21** (“Applicant”), a 501 (c) (3) tax-exempt, non-profit corporation authorized to do business in Texas, 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 the Texas Constitution Article VIII, Section 52-a; and

WHEREAS, on June 14, 2011, the City adopted a Chapter 380 economic development program by creating the City of El Paso Economic Development Incentive Policy Impact Fund ("Impact Fund") for the purpose of achieving economic growth, expanding and diversifying the tax base and creating new quality jobs within the City of El Paso; and

WHEREAS, the City desires to provide, pursuant to Chapter 380, an incentive to Applicant to expand Applicant's Technology Incubator within the City of El Paso; 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 Applicant's Technology Incubator be located in the City of El Paso; and

WHEREAS, the Applicant's Technology Incubator being located in El Paso, Texas will likely encourage increased economic development in the City, provide 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 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 attached exhibits.
- B. **Annual Report.** The words “Annual Report” mean a yearly account provided to the El Paso City Council that includes descriptions reporting on the outcome metric items more fully described in **EXHIBIT D**, which is attached hereto and incorporated herein for all purposes.
- C. **Applicant.** The word “Applicant” means PIONEERS 21, a 501(c) (3) non-profit corporation authorized to do business in Texas.
- D. **City.** The word “City” means the City of El Paso, Texas.
- E. **Client Company.** The words "Client Company" mean: (i) an entity which has contracted with the Applicant to receive business incubation services, which are consistent with the operation of the Project or (ii) an entity which has its operation in the El Paso region, is a viable business concern, and has received services from Applicant during the term of this Agreement
- F. **Development.** The word “Development” means Applicant’s Technology Incubator being located in El Paso, Texas as more fully described on **EXHIBIT A**, which is attached hereto and incorporated herein for all purposes.
- G. **Effective Date.** The date upon which both parties have fully executed this Agreement as set forth on the signature pages hereof.
- H. **Event of Default.** This phrase shall have the meaning set forth in Section 5 hereof.
- I. **Event of Nonappropriation.** The phrase means the failure of the City to appropriate for any Fiscal Year, sufficient funds to pay the Grant payment, or the reduction of any previously appropriated money below the amount necessary to permit the City to pay the Grant payments from lawfully available funds.
- J. **Full-Time Employment.** The words “Full-Time Employment” mean a job requiring a minimum of two thousand 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 contributions to health insurance, for those employees that participate in the health insurance program.
- K. **Graduate Company.** The words “Graduate Company” mean a company that had previously been identified as a Client Company and has begun operations as a viable business concern.

- L. **Grant.** The word “Grant” means a payment on an annual basis to Applicant under the terms of this Agreement and payable from the City’s general revenue fund. Under no circumstances shall the Grant payment exceed Five Hundred Thousand Dollars (\$500,000.00).
- M. **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 the Grant, with such documentation more fully described in **EXHIBIT E**, which is attached hereto and incorporated herein for all purposes.
- N. **New Client Company.** The words "New Client Company" mean: (i) an entity which has contracted with the Applicant to receive business incubation services, which are consistent with the operation of the Project and (ii) an entity which has its operation in the El Paso region, is a viable business concern, and has received services from Applicant during the term of this Agreement and (iii) has not received services from the Applicant previous to the calendar year of the Grant Submittal.
- O. **Project.** The word “Project” means the project more particularly described in **EXHIBIT A**.
- P. **Property.** The word “Property” means real property located at 500 W. Overland Ave. Suite 230, 79901, in El Paso, TX, more specifically described in **EXHIBIT A**.

SECTION 2. TERM AND GRANT PERIOD.

The term of this Agreement shall commence on the Effective Date and shall terminate on the first to occur: (i) Two (2) years from the Effective Date, plus such additional time thereafter as may be necessary to process the final monthly Grant payment or (ii) the proper termination of this Agreement in accordance with the applicable provisions contained herein, or (iii) termination by mutual consent of the parties in writing.

The Grant Period shall begin when the Applicant submits to the City the initial Grant Submittal Package.

SECTION 3. AGREEMENT PURPOSE

The purpose of the Grant is to provide Applicant with capitalization funds for actual and reasonable costs incurred in operating a technology business incubator in downtown El Paso, which will support local entrepreneurship and innovation development and accelerate economic development efforts in El Paso, including, but not limited to, accelerating the creation of high-technology firms operating in the El Paso region in those targeted industries (the "Project"). For purposes of this Agreement, targeted industries are those industries directly related to the fields of life sciences, biomedical science, clean tech and clean energy technologies, Defense/Homeland Security, automotive, and advanced manufacturing. The Project is anticipated to promote local economic development and stimulate business and commercial activity in the City of El Paso.

The Applicant's eligibility for Grant payments shall be limited to Two (2) years (the "Grant Period") within the term of this Agreement. The City shall review Applicant's eligibility for Grant Payments on a quarterly basis in accordance with **EXHIBIT C** and on an annual basis in accordance with **EXHIBIT D**, during the Grant Period.

SECTION 4. OBLIGATIONS OF APPLICANT.

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

- A. Project Requirements. Applicant agrees to maintain and operate the technology incubator, at its sole cost and expense, at 500 W. Overland Avenue, El Paso, Texas and specifically, to perform the following obligations with respect to operation of the technology incubator:
 - 1. Applicant will provide high-quality technology incubation services on behalf of each Client Company and each Graduate Company, as applicable, to include, as appropriate:
 - a. Infrastructure services (e.g., use of facilities, furniture, high-speed internet access, mail delivery, conference rooms, telephone service, shared services, and other facility-related benefits);
 - b. Access to Operational support services (e.g., in-kind professional support, accounting/financial management, human resources, and legal); and
 - c. Access to Strategic support services (e.g., strategic partner networks, entrepreneurial education and training, access to investor financing and capitalization, product development, commercialization, and marketing, intellectual property strategy, business strategy and planning, links to higher education, specific-sector expertise, and linkages to mentors, advisory teams, and potential board of directors candidates).
 - 2. During the term of this Agreement, Applicant will establish contractual obligations in its service contracts with each Client Company for the provision of data and information necessary for Applicant to complete the documentation required for each Grant Submittal Package and the Annual Report.
 - 3. Applicant will develop a workable selection process for each Client Company, which is well-communicated and appropriate to the mission and the context of the technology incubator and correlated to specific product and business criteria for each prospective Client Company.
 - 4. Applicant agrees to use its best good faith efforts to obtain funding from other non-governmental funding sources as those funding opportunities become available.
 - 5. Applicant agrees to seek out opportunities for collaboration and partnership with entities involved in the expansion of innovative capacity and entrepreneurial activity in El Paso,

Texas, including, but not exclusively, with the Medical Center of the Americas Foundation.
y.

- B. Applicant expressly agrees that the dollar amount of all transfers among existing allowable categories described in **EXHIBIT B** (the "Project Budget"), shall be equal to or less than thirty percent (30%) of the total amount of the Grant funding allocated for the budget year.
- C. Applicant expressly agrees that the transfer of dollar amounts among existing allowable categories described in **EXHIBIT B** (the "Project Budget"), shall not change the scope or objective of the Project funded under this Agreement.
- D. Applicant expressly agrees that the dollar amounts associated with all positions described in **EXHIBIT B** (the "Project Budget") as "Business Support Salaries" cannot be adjusted downwards. Downward adjustments to the dollar amounts associated with all positions described in **EXHIBIT B** (the "Project Budget") as "Business Support Salaries" will not be allowed.
- E. Applicant expressly agrees to submit a written request for the revision of the Project Budget, which must contain a complete explanation and justification of changes made, and is subject to the approval of the City Manager or designee. The revised Project Budget will substitute the original Project Budget (or any prior revised Project Budget) upon the City Manager or designee's approval and acceptance thereof, without the need for a written amendment to this Agreement.
- F. Applicant agrees that it shall create, staff, and maintain all positions labeled as "Full-Time Employment" positions described in **EXHIBIT B** for the Development as of December 31 of the applicable year, and shall maintain the Full-Time Employment positions for the Development through the entire Grant Period of this Agreement.
- G. Applicant, during normal business hours, at its principal place of business in El Paso, and with two weeks written notice, shall allow the City, or its agents, reasonable access to Applicant's employment records and books, and other records that are related to Applicant's compliance with this Agreement. City and Applicant must mutually agree to employment records and books to be accessed prior to allowing the City or its agents access to Applicant data. If the City is unable to verify Full-Time Employment, the Applicant agrees to waive their Grant Payment for that year. In order to protect these records, the City shall maintain the confidentiality of such records in accordance with and subject to commercially reasonable practices and all applicable laws to the extent allowed by the Texas Open Records Act.
- H. On a monthly basis, Applicant will complete and submit a Grant Submittal Package in the form attached here to as **EXHIBIT E**, together with the requisite verifiable documentation, in order to request disbursement of Grant funds as a reimbursement for the costs of services provided pursuant to this Agreement in the prior monthly period. Applicant shall submit to the City the Grant Submittal Package to commence the Grant Period on November 12, 2019 or within thirty (30) business days after November 12, 2019. The Grant Submittal Package cannot be submitted earlier than November 12, 2019.

A failure by Applicant to timely submit a Grant Submittal Package in accordance with this paragraph is a waiver by the Applicant to receive a Grant payment for that Grant month. The City's determination of the amount of the Grant payment due to Applicant is final. Nothing herein shall limit (or be construed to limit) Applicant's rights and remedies under this Agreement.

- I. On an annual basis, Applicant will produce and present an Annual Report to the El Paso City Council to include descriptions reporting on the outcome metric items more fully described in **EXHIBIT D**. Failure of the Applicant to produce and present the Annual Report shall result in a stop on future disbursements of Grant funds.
- J. 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. The 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 any other property owned by the Applicant with the City of El Paso.

SECTION 5. 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. On a quarterly basis, the City shall evaluate Applicant's performance based on the Performance Metrics described in **EXHIBIT C** and shall score each metric as either "Favorable" (meaning Applicant has met or exceeded the Performance Metric) or "Unsatisfactory" (meaning Applicant has failed to meet the Performance Metric by twenty-five percent (25%) or more). If Applicant fails to meet the above "Favorable" scoring threshold in any category for the reporting period, the monthly Grant payment shall be withheld. For scoring purposes, the Performance Metrics described in **EXHIBIT C** shall be divided by four (4) and rounded to the nearest whole number to reflect the quarterly metric goals. Monthly Grant payments shall not be withheld if Applicant fails to meet the quarterly metric goals described in **EXHIBIT C** in any specific category where the Applicant has already exceeded the total annual metric requirement, noted as the "Annual Metric Target" in **EXHIBIT C**. If the Applicant fails to meet or exceeded the Annual Metric target for each category described in **EXHIBIT C** by the end of the Grant year, all future Grant payments shall be withheld.
- B. The City agrees to approve or reject any Grant Submittal Package within ninety (90) days after its receipt. The City agrees to process any Grant Payments to Applicant within ninety (90) days after its approval of the Applicant's Grant Submittal Package.
- C. The City shall determine the total amount of Grant payments due to the Applicant, if any, on an annual basis as provided in **EXHIBITS B and C**.

- D. Under no circumstances shall the total Grant payment exceed Five Hundred Thousand Dollars (\$500,000.00).

SECTION 6. EVENTS OF DEFAULT.

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

- A. **Failure to Operate and 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 Grant Period, and Applicant's failure or refusal to cure within ninety (90) days after written notice from the City describing such failure, shall 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 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, but the Applicant commences such cure within such thirty (30) day period and continuously thereafter diligently prosecutes the cure of such violation, such actions or omissions shall not be deemed an event of default. Further, if Applicant obtains actual knowledge that any previously provided warranty, representation or statement has become materially 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 thirty (30) days after Applicant learns of its false or misleading nature, such action or omission shall be deemed an event of default.
- 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. **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.
- E. **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's or City's failure to cure such failure within sixty (60) 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 sixty (60) day period in the exercise of all due diligence, and Applicant or City commences such cure within such sixty (60) day period and continuously thereafter diligently prosecute the cure of such failure, such act or omission shall not be deemed an event of default.

F. **Failure to Cure.** If any event of default by Applicant or City shall occur, and after Applicant or City fails to cure same in accordance herewith, then this Agreement may be terminated without any further action required of the Applicant or City and the Applicant's or City's obligations end at that time. If a default has not been cured within the time stated herein, the non-defaulting party shall have all rights and remedies under the law or in equity.

G. **Liability.** In no event will either party be liable to the other party for any indirect, special, punitive, exemplary, incidental or consequential damages. In no event shall the liability of either party exceed the value of Grant Payments issued hereunder. This limitation will apply regardless of whether or not the other party has been advised of the possibility of such damages.

SECTION 7. RECAPTURE OF GRANT PAYMENTS.

Should the Applicant default under Section 4 of this Agreement or any other terms of this Agreement, and provided that the cure period for such default has expired and Applicant failed to timely cure such default, all Grants 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.

SECTION 8. 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 void or illegal, including any case law holding that a Chapter 380 Economic Development Agreement such as this Agreement is an unconstitutional debt.

SECTION 9. 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 all 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 is void and may 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.** Thirty days 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. 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. **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.
- G. **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 the same document.
- H. **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.

- I. **Execution of Agreement.** The City Manager has received authority to execute this Agreement on behalf of the City from the City Council through approval of a resolution.
- J. **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed beyond such party's reasonable control by reason of war, civil commotion, acts of God, severe 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 reasonably delayed.
- K. **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
P.O. Box 1850
El Paso, Texas 79950-1850

Copy To: City of El Paso
Economic Development Department Director
P.O. Box 1850
El Paso, Texas 79950-1850

APPLICANT: Carlos Martinez-Vela: President and CEO
PIONEERS 21
500 W. Overland Avenue Suite 230
El Paso, TX. 79901

- L. **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.
- M. **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 _____, 2019.

CITY OF EL PASO, TEXAS

Tomás González City Manager

APPROVED AS TO FORM:

Roberta Brito
Roberta Brito
Assistant City Attorney

APPROVED AS TO CONTENT:

for Jessica Herrera
for Jessica Herrera, Director
Economic and International Development

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the _____ day of _____, 2019, by **Tomás González**, as **City Manager** of the **City of El Paso, Texas**.

Notary Public, State of Texas

My Commission Expires:

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

APPLICANT:

PIONEERS 21:

A corporation authorized to do business in Texas

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____ §

§

COUNTY OF _____ §

§

This instrument was acknowledged before me on the _____ day of _____,
2019, by _____, as _____ of PIONEERS 21.

Notary Public, State of _____

My Commission Expires:

EXHIBIT A
[Development]

PIONEERS 21 provides incubation and related business development services to appropriate emerging technology and high growth companies. Currently, PIONEERS 21 is housed at 500 W. Overland Ave. Suite 230, 79901, in El Paso, TX.

EXHIBIT B

[Project Budget]

PROJECT BUDGET

In order for the Applicant to be eligible for any Grant Payment, Applicant is required to provide an annual report that demonstrates full-compliance with the budget items described below in “Table 1”.

Table 1: PROJECT BUDGET

Item	2020-21	Percent of Total Grant
Business Support Salaries	\$158,050	63%
CEO (Full-Time Employment)	\$116,000	46%
Program Assistant (Full-Time Employment)	\$28,100	11%
Finance and Accounting	\$13,950	6%
Fringes	\$12,270	5%
CEO	\$9,330	4%
Program Assistant	\$2,440	1%
Finance and Accounting	\$500	0%
Marketing / Education Program	\$1,500	1%
Supplies and Equipment	\$6,100	2%
Equipment rental	\$3,100	1%
Software	\$3,000	1%
Contract Services	\$48,220	19%
Accounting	\$2,200	1%
Business Support (Coaching / Mentoring)	\$37,200	15%
Payroll Processing	\$1,120	0%
Phone Telecommunications	\$7,700	3%
Travel	\$2,000	1%
Workshops, training, rent	\$21,860	9%
Space (CAM , rent is donated)	\$19,560	8%
Insurance	\$2,300	1%
TOTAL EXPENSES	\$250,000	100%

EXHIBIT C

[Performance Metrics]

PERFORMANCE METRICS

In order for the Applicant to be eligible for any Grant Payment, Applicant is required to provide a quarterly report that demonstrates compliance with the performance metric items described below in “Table 2”.

Table 2: PERFORMANCE METRICS

Item	Annual Metric Target
Percent Revenue from PIONEERS 21 Operations vs Expenses	12-16%
Total number of firms defined as a New Client Company	12
Free Workshops / Seminars / Events	12
Entrepreneurs / Innovator @ Workshops / Seminars / Events.	400
Entrepreneurs / Innovator Trained.	115
Micro-Enterprises / SMEs Trained	20
Targeted Audience/Sector Workshops.	6
Free Roaming Workshops	8

EXHIBIT D

[Yearly Report]

OUTCOME METRIC REPORT

In order for the Applicant to be eligible for any Grant Payment, Applicant is required to provide an annual report that includes descriptions reporting on the outcome metric items detailed below.

1. The number of Client Company firms that have achieved Graduate Company status.
2. Number of people currently employed full-time and part time by each Client Company and each Graduate Company, (FTE's).
3. Current monthly salaries and wages paid by each Client Company and each Graduate Company.
4. Gross revenues for the most recent full year for each Client Company and each Graduate Company.
5. Total capital raised or Self-Invested Equity and Debt (bank loans, loans from family and friends, revolving loan funds and/or other loans sources) by each Client Company and each Graduate Company.

EXHIBIT E

[Grant Submittal Package Form]

PIONEERS 21 believes that it has substantially met its obligations under the Chapter 380 Agreement dated the _____ day of _____, 20____. Pursuant to the Agreement, Applicant submits this Grant Submittal Package Form in compliance with the Agreement and in anticipation of receiving the Grant payments referenced in the Agreement in consideration for its obligations met therein.

As required by the Agreement, the following information is submitted.

1. Current Performance Metric Report (if being also submitted on a quarterly or yearly due date).
2. All appropriate and substantiating documents detailing eligible reimbursement amount requested.
3. All contract information as required per Section 4.A.2.

It is understood by **Applicant** that the City of El Paso has up to **thirty (30) days** to process this request and reserves the right to deny the Grant claim if the terms of the Agreement have not been complied with.

PIONEERS 21

Name: _____
Title: _____