

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

AGENDA DATE: June 8, 2021
PUBLIC HEARING DATE: Not applicable

CONTACT PERSON(S) NAME AND PHONE NUMBER:
Jessica Herrera, Director of Economic Development, (915) 212-1624
Bruce D. Collins, Director of Purchasing & Strategic Sourcing, (915) 212-1181

DISTRICT(S) AFFECTED: All

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

SUBGOAL: 1.1 - Stabilize and Expand El Paso's Tax Base

SUBJECT:

AUTHORIZE the City Manager to sign a Service Agreement between the City of El Paso and Better Business Bureau Foundation of El Paso for the amount of \$116,500.00.

Request that the City Manager be authorized to sign a Consulting Services Agreement by and between the CITY OF EL PASO and the BETTER BUSINESS BUREAU OF EL PASO ("BBB"), for the BBB to provide marketing services for the "EPBUSINESSSTRONG AND BUY EL PASO PROGRAMS" in an amount not to exceed \$116,500.00.

BACKGROUND / DISCUSSION:

The above integrated program is intended to provide a sustainable framework to support the economic development of the City of El Paso that recognizes the challenges small businesses face due to the COVID-19 pandemic and the difficulties they have understanding their responsibilities and opportunities. This will be done by continuing the EPBusinessStrong.org website. It has become a known central resource for information that is pertinent in helping their business survive as well as become resilient. The program also includes continuation of the Buy El Paso program which has successfully helped to invigorate demand of El Paso small businesses. The program is designed to quickly adapt to the needs of the City with respect to important communication and economic development priorities.

This program is in coordination with the County of El Paso. They will be contributing half of the \$233,000.00.

SELECTION SUMMARY:

N/A

CONTRACT VARIANCE:

No contract variance

PROTEST

No protest received for this requirement.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

Amount: \$116,500.00

Funding Source: General Funds

Account: 480-1000-48010-522150

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Economic Development Department

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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

DEPARTMENT HEAD:

Eduardo Garcia

Digitally signed by Eduardo Garcia
Date: 2021.05.25 16:17:55 -06'00'

Jessica Herrera – Director of Economic Development

**COUNCIL PROJECT FORM
(Noncompetitive)**

*******POSTING LANGUAGE BELOW*******

Please place the following item on the **REGULAR** agenda for the Council Meeting of **June 8, 2021**.

Strategic Goal 1: Create an Environment Conducive to Strong, Sustainable, Economic Development.

The linkage to the Strategic Plan is subsection: 1.1 - Stabilize and Expand El Paso's Tax Base.

Award Summary:

Request that the City Manager be authorized to sign a Consulting Services Agreement by and between the CITY OF EL PASO and the BETTER BUSINESS BUREAU OF EL PASO ("BBB"), for the BBB to provide marketing services for the "EPBUSINESSSTRONG AND BUY EL PASO PROGRAMS" in an amount not to exceed \$116,500.00.

Contract Variance:
No contract variance.

Department:	Economic Development
Award to:	Better Business Bureau Foundation of El Paso El Paso, TX
Initial Term:	9 months
Total Estimated Award:	\$116,500.00 (9 months)
Account No.:	480-1000-48010-522150
Funding Source:	Economic Development outside Contracts
Districts(s):	All
Sole Source No.:	2021-1198

This is a non-competitive, Service Agreement.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

*******ADDITIONAL INFO BELOW*******

RESOLUTION

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

That the City Manager be authorized to sign a Consulting Services Agreement by and between the CITY OF EL PASO and the BETTER BUSINESS BUREAU OF EL PASO (“BBB”), for the BBB to provide marketing services for the “EPBUSINESSSTRONG AND BUY EL PASO PROGRAMS” in an amount not to exceed \$116,500.

APPROVED THIS _____ DAY OF _____ 2021.


CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Juan S. Gonzalez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

 Eduardo Garcia Digitally signed by Eduardo Garcia
Date: 2021.05.25 16:18:34 -06'00'

Jessica Herrera, Director
Economic and International Development

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONSULTING SERVICES AGREEMENT

This Consulting Services Agreement is made this ____ day of _____, 2021 by and between the **CITY OF EL PASO**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the “**CITY**”, and the **BETTER BUSINESS BUREAU** of El Paso, a Non-Profit Organization (“**Consultant**” or “**Contractor**”).

RECITALS

WHEREAS, CITY has a substantial need for marketing services; and

WHEREAS, CITY cannot adequately perform the services with its own personnel; and

WHEREAS, Consultant has demonstrated the competence, knowledge, and qualifications to provide the marketing services CITY requires at a reasonably proposed fee for said services; and

WHEREAS, Consultant has been selected to perform such services as required by the CITY, and the Consultant was selected in accordance with all applicable state and local laws and ordinances;

WHEREAS, Consultant desires to provide the required services to City; and

WHEREAS, the CITY intends to engage the Consultant to provide marketing services for the project known as the “**EPBUSINESSSTRONG AND BUY EL PASO PROGRAMS**”, hereinafter referred to as the “**Project**”, as further described in **Attachment “A”**; and

NOW, THEREFORE, for the consideration set forth in this Agreement and its attachments, the CITY and Consultant agree as follows:

**ARTICLE I.
ATTACHMENTS**

1.1 The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment “A”	Scope of Services and Budget
Attachment “B”	Insurance Certificate

**ARTICLE II.
PROJECT**

2.1 The CITY hereby agrees to retain the Consultant and the Consultant agrees to perform consultancy services for the Project. The Project shall consist of the Consultant's completion of the Scope of Services as further described in **Attachment "A"**.

**ARTICLE III.
CONSULTANT FEES AND PROJECT BUDGET**

3.1 PAYMENT TO CONSULTANT. The CITY shall pay to the Consultant an amount not to exceed **\$116,500** for all services and reimbursables performed pursuant to this Agreement.

The parties agree and understand that all fees and compensation to the Consultant shall only become due and payable in accordance with the terms of this Agreement and the fees to be charged for the Project shall be pursuant to the Scope of Services attached to this Agreement as **Attachment "A"**.

3.2 CONSULTANT'S SERVICES. The Services to be provided by the Consultant for this Agreement are attached hereto as **Attachment "A"**.

3.3 CONSULTANT'S INVOICES. The Consultant shall bill the CITY not more often than monthly, through written invoices. Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing.

3.3.1 Each invoice shall contain a brief summary indicating, at a minimum, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date.

3.3.2 The CITY agrees to pay invoices for all services performed as soon as reasonably possible but not later than thirty (30) days from receipt. Upon dispute, however, the CITY may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to Consultant shall not exceed Consultant's fee proposal, except by written amendment to this Agreement, executed by both parties.

**ARTICLE IV.
PERIOD OF SERVICE AND TERMINATION**

4.1 PERIOD OF SERVICE. The services called for by each phase shall begin upon the execution by all parties to this Agreement. The Consultant shall complete the requested services in accordance with the timelines and schedules outlined in **Attachment "A"**.

4.2 *[RESERVED]*

4.3 TERMINATION. This Agreement may be terminated as provided herein.

4.3.1 TERMINATION BY OWNER. It is mutually understood and agreed by the Consultant and CITY that the CITY may terminate this Agreement, in whole or in part for the convenience of the CITY, upon **fourteen (14) consecutive calendar days'** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the CITY's notice of termination. CITY shall compensate Consultant in accordance with this Agreement; however, the CITY may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the CITY is determined. Nothing contained herein, or elsewhere in this Agreement shall require the CITY to pay for any services that are not in compliance with the terms of this Agreement and its attachments.

4.3.2 TERMINATION BY EITHER PARTY. It is further understood and agreed by the Consultant and CITY that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of **seven (7) consecutive calendar days** to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the CITY retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the CITY pursuant to this subsection, the CITY may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the CITY is determined.

4.3.3 TERMINATION FOR FAILURE TO COMPLY WITH SUBCHAPTER J, CHAPTER 552, GOVERNMENT CODE. The requirements of subchapter J, Chapter 552, Government Code, may apply to this Contract. Contractor agrees that the Contract can be terminated if the contractor or any of its vendor(s) knowingly or intentionally fails to comply with a requirement of that subchapter.

4.3.4 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE. Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

**ARTICLE V.
INSURANCE AND INDEMNIFICATION**

5.1 INSURANCE. The Consultant shall procure and maintain insurance coverage as required herein and attached in **Attachment “B”**. Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the CITY. The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.

5.1.1 WORKERS’ COMPENSATION INSURANCE. The Consultant shall procure and shall maintain during the life of this Agreement, Workers’ Compensation Insurance as required by applicable Texas law for all of the Consultant’s employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

“The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the CITY, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured.”

5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE. The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant’s employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

- a) **Commercial General Liability**
\$1,000,000.00 Per Occurrence
\$1,000,000.00 Products/Completed Operations
\$1,000,000.00 Personal and Advertising Injury

- b) **AUTOMOBILE LIABILITY**
Combined Single Limit
\$1,000,000.00 per accident

5.1.3 [RESERVED]

5.1.4 OWNER AS ADDITIONAL INSURED. The CITY shall be named as an Additional Insured on all of the Consultant’s Insurance Policies, with the exception of Workers’ Compensation required by this Agreement.

5.1.5 PROOF OF INSURANCE. The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class

of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this Agreement.

5.1.6 GENERAL INSURANCE PROVISIONS. All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment “B”**. All certificates shall also include the name of the project on the corresponding insurance certificate.

5.2 INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, CONSULTANT SHALL INDEMNIFY HOLD HARMLESS, AND DEFEND CITY, AND CITY’S OFFICERS, DIRECTORS, PARTNERS, AGENTS CONSULTANTS, AND EMPLOYEES FROM AND AGAINST ANY CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF CONSULTANTS, SUBCONSULTANTS, VENDORS, ATTORNEYS, AND OTHER PROFESSIONALS, AND ALL COURT, ARBITRATION, OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO THE PROJECT, PROVIDED THAT ANY SUCH CLAIM, COST, LOSS, OR DAMAGE IS ATTRIBUTABLE TO ANY NEGLIGENT ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR, VENDOR, OR SUPPLIER COMMITTED BY CONSULTANT OR CONSULTANT’S OFFICERS, DIRECTORS, PARTNERS, AGENTS, CONSULTANTS OR EMPLOYEES. THE CONSULTANT SHALL NOT BE RESPONSIBLE FOR ANY ACTS OF ANY OF THE CITY’S INDEPENDENT PROJECT MANAGERS.

TO THE EXTENT ALLOWED BY STATE LAW, THE CITY WILL BE RESPONSIBLE FOR ITS OWN ACTIONS.

ARTICLE VII. GENERAL PROVISIONS

7.1 CONTRACT TIME. Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is prudent and to use its best efforts

to complete all phases of this Agreement within the time schedules indicated within **Attachment “A”**.

7.2 COPYRIGHT AND REPRODUCTION RIGHTS. Upon payment of amounts due, the concepts, design, and other documents prepared by the Consultant for this Project including, without limitation, those in electronic form (sometimes referred to as the “Instruments of Service”) are the property of the CITY, who shall be vested with all common law and statutory rights. The CITY shall have the right to the use of the documents; provided however the Consultant shall have no liability for any use of one or more of the Instruments of Service by the CITY. The CITY shall have the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the concepts, design, and other documents. The rights granted to the CITY herein for the use of the documents for additional projects shall not grant the CITY any right to hold the Consultant responsible for any subsequent use of the documents. The Consultant shall provide the CITY with copies of the Instruments of Service in both electronic form and in hard copy.

7.3 AUDITING RECORDS FOR THE SPECIFIC PROJECT. Consultant’s records subject to audit shall include but not be limited to records which, have a bearing on matters of interest to the CITY in connection with the Consultant’s work on this Project for the CITY and shall be open to inspection and subject to audit and/or reproduction by CITY’s agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant’s compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant’s records have been generated from computerized data, Consultant agrees to provide CITY’s representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The CITY or its designee shall be entitled, at its expense, to audit all of the Consultant’s records related to this Project, and shall be allowed to interview any of the Consultant’s employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times (limited to Consultant’s office hours) and places upon reasonable notice.

7.4 CONTRACTING INFORMATION

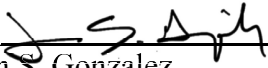
The Contractor must preserve all contracting information related to this Contract as provided by the records retention schedule requirements applicable to the City for the duration of this Contract. Contractor will promptly provide the City any contracting information related to this Contract that is in the custody or possession of the Contractor on request of the City. On completion of this Contract, Contractor will either provide at no cost to the City all contracting information related to this Contract that is in the custody or possession of the Contractor or preserve the contracting information related to this Contract as provided by the records retention requirements applicable to the City.

WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

CITY:
CITY OF EL PASO:

Tomás González
City Manager

APPROVED AS TO FORM:



Juan S. Gonzalez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Eduardo Garcia Digitally signed by Eduardo Garcia
Date: 2021.05.25 16:19:16 -06'00'

Jessica Herrera, Director
Economic and International Development

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on this _____ day of _____, 2021,
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)

CONSULTANT:

Better Business Bureau

By: 
Marybeth Stevens, President

ACKNOWLEDGEMENT

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on this 25th day of may, 2021,
by as **Marybeth Stevens, President** of Better Business Bureau.




Notary Public, State of Texas

My commission expires:

06/04/2022

ATTACHMENT "A" SCOPE OF WORK



Better Business Bureau Paso del Norte

Start With Trust

Serving Texas in El Paso, Hudspeth, Culberson, Jeff Davis and Presidio Counties and the State of Chihuahua, Mexico

May 12, 2021

Miranda Diaz
City of El Paso

RE: Scope of Work to Continue the EPBusinessStrong and Buy El Paso Programs Through 2021 with County of El Paso Matching Support

As requested, the following sets forth a proposed Scope of Work to leverage best practices and investments that have been made by the City of El Paso and the Better Business Bureau that will continue integrated and sustained marketing and communication campaigns to ensure timely and effective communication to support small businesses throughout the City of El Paso. El Paso Business Strong and Buy El Paso campaigns will build upon momentum built in 2020 to Q1 of 2021 to:

- Provide critical information from City/County officials and available economic development resources for local and small businesses
- Communicate important health and safety protocols to reduce the spread of COVID-19 or other public health issues
- Promote local businesses that are working to ensure the health and safety of their employees and customers is paramount, those businesses that are embracing and adapting to their new operating environments, and the importance of buying local.

The above integrated program is intended to provide a sustainable framework to support the economic development of the City of El Paso that recognizes the challenges small businesses face due to the COVID-19 pandemic and the difficulties they have understanding their responsibilities and opportunities. The program is designed to provide services for 9 months, which envisions the ability to quickly adapt to the needs of the City with respect to important communication and economic development priorities.

Websites:

Custom Web Development \$4,000

Tech Support \$500 month (\$4,500 total)

Google Adwords \$750 month (\$6,750 total)

Total \$15,250

- Google AdWords and Search Engine Optimization for both epbusinessstrong.org and BuyEP.org

- Continued tech support for the year
 - Maintenance, Support and Content Management
 - Server configuration, VPS Hosting
 - Malware and Phishing Security Services
 - Backup and Disaster Recovery
 - SSL Certification
 - 1 user email hosting
 - Content management: edits, uploads, basic enhancements

Communications Consulting:
\$7,500 per month (\$67,500 total)
\$5,000 production fee
\$4,500 social media ad budget
\$8,500 promotional items

Total: \$85,500

- Develop and implement communications strategy for Biz Strong and Buy El Paso
- Develop and manage all messaging for Biz Strong and Buy El Paso
 - Public Relations
 - Crisis communications and rapid response
- Social media management and content creation
 - Content Calendar
 - Promotional Campaigns
- Production of creative collateral for campaign
 - Video
 - Photos
 - Promotional Items
 - Facebook Live production

BBB Direct Service Delivery Resources:
\$1,000 per month (\$9,000 total)

- Direct staffing services and communication tools
 - Translation
 - Interviews
 - Production

Administration and Reporting:
\$750 per month (\$6,750 total)

Total \$15,750

9 Month Program TOTAL:
\$116,500

We appreciate this opportunity to continue to work with the City Of El Paso and to provide these important economic development tools and resources to support local businesses as they adapt to the realities of ever-changing operating environments.

Thank you for your consideration,

Marybeth Stevens
President, BBB El Paso
915-309-5463

