

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

AGENDA DATE: September 25, 2023

PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER:

Bill Allen, (915) 212 - 1619
Elizabeth Triggs, (915) 212- 0094

DISTRICT(S) AFFECTED: 6

STRATEGIC GOAL: Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development

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

SUBJECT:

Discussion and action that the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement ("Agreement") by and between CITY OF EL PASO ("City") and PROD Design & Analysis, Inc., a Texas Corporation, ("Applicant") in support of a project located at 1255 Peter Cooper Dr., El Paso, Texas 79936. The project includes providing stability in operations by expanding into the aerospace and defense initiatives being targeted by the Build Back Better initiative, requiring additional resources and training for new venture. The Agreement requires the Applicant to make a minimum investment of \$4,400,000.00. Over the term of the Agreement, the City shall provide economic incentives not to exceed \$188,774.00 in the form of a Property Tax Rebate; a Development Fee Rebate; and a Construction Materials Sales Tax Rebate.

BACKGROUND / DISCUSSION:

PROD Design & Analysis, Inc. will invest \$4,400,000.00 to expand its current operations to provide an area that allows for growth into the aerospace & defense sectors, which will result in 48 new full-time jobs and the retention of 110 existing full-time employees during the term of the agreement. As consideration, the City will provide performance-based economic incentives not to exceed \$188,774.00 in the form of:

1. Ten annual property tax rebates on 75 percent of the incremental property tax revenue received by the City as a result of the project's construction, capped at \$161,774.00;
2. A one-time development fee rebate, capped at \$10,000.00; and
3. A one-time rebate on the one-percent sales and use tax revenue received by the City as a result of construction materials sales made in connection with development of the project, capped at \$17,000.00.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

General Fund

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ **YES** ☐ **NO**

PRIMARY DEPARTMENT: Economic and International Development

SECONDARY DEPARTMENT: N/A

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

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

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”) by and between **CITY OF EL PASO** (“City”) and **PROD Design & Analysis, Inc.**, a Texas Corporation, (“Applicant”) in support of a project located at **1255 Peter Cooper Dr. El Paso, Texas 79936**. The project includes **providing stability in operations by expanding into the aerospace and defense initiatives being targeted by the Build Back Better initiative, requiring additional resources and training for new venture**. The Agreement requires the Applicant to make a minimum investment of **\$4,400,000.00**. Over the term of the Agreement, the City shall provide economic incentives not to exceed **\$188,774.00** in the form of a Property Tax Rebate; a Development Fee Rebate; and a Construction Materials Sales Tax Rebate.

APPROVED this _____ day of _____, 20_____.


CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Russell T. Abeln
Assistant City Attorney

APPROVED AS TO CONTENT:



Elizabeth K. Triggs, Director
Economic & International Development

STATE OF TEXAS	§	CHAPTER 380 ECONOMIC DEVELOPMENT
	§	PROGRAM AGREEMENT
COUNTY OF EL PASO	§	

This Chapter 380 Economic Development Program Agreement (“Agreement”) is made and entered into by and between the **City of El Paso, Texas, a Texas home rule municipal corporation**, (the “City”) and **PROD Design & Analysis, Inc., a Texas corporation** (“Applicant”), for the purposes and considerations stated below:

RECITALS

WHEREAS, the City has the authority under Chapter 380 of the Texas Local Government Code (“Chapter 380”) to make loans or grants of public funds for the purpose of promoting local economic development and stimulating business and commercial activity within the City; and

WHEREAS, the City desires to provide incentives to the Applicant, pursuant to Chapter 380, for the construction or renovation of a development located on the Applicant’s real property, located at **1255 Peter Cooper Dr. El Paso, Texas 79936**, and the Applicant wishes to receive the incentives in exchange for compliance with the obligations set forth herein; and

WHEREAS, the City concludes and hereby finds that this Agreement promotes economic development in the City and meets the requirements of Chapter 380.

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”** means this Chapter 380 Economic Development Program Agreement, together with all exhibits and schedules attached and incorporated herein by reference.
- B. **“Base Year Value”** means valuation of the Real and Personal Property by the El Paso Central Appraisal District on the rolls as of January 1st of the year of the Effective Date of this Agreement. The Base Year Value shall not be interpreted to be equivalent or determinative for appraisal purposes or used in any way to determine market value. For the purposes of this Agreement, the Base Year Value is **\$7,479,189.00**.
- C. **“Construction Materials Sales Tax Rebate”** means a one-time 100% rebate of the City’s 1% Sales and Use Tax from receipts for materials and labor of taxable items used in the construction of the Development. The Construction Materials Sales Rebate shall not exceed **\$17,000.00**.
- D. **“Development”** means new construction on a vacant lot or renovation of an existing vacant or blighted building(s) to be used for any of the following land uses: single-family homes for attainable rental housing, office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing local law.

The Development is described in Exhibit B, which is attached and incorporated for all purposes.

- E. **“Development Fee Rebate”** means a one-time 100% rebate of certain development fees based on the fee schedule attached as Exhibit A to Ordinance 018581. The Development Fee Rebate shall not exceed **\$10,000.00** and will be rebated upon the Applicant’s provision of the Grant Submittal Package demonstrating that the total construction cost for the Development is greater than the Base Year Value.
- F. **“Effective Date”** means the date the El Paso City Council approves the Agreement.
- G. **“Full-Time Employment”** means a job in El Paso requiring a minimum of 1,820 prorated hours of work in a year, including allowance for vacation, holidays and sick leave, with full company benefits including company paid health insurance (employees must not be required to pay more than fifty percent (50%) of the health insurance premium). These requirements are more completely described in Exhibit “E,” which is attached hereto and incorporated herein for all purposes.
 - (1) Is created and/or retained by the applicant, where the employee is on active status and on the payroll of the Applicant on the last day of the reporting year;
 - (2) Maintains employment where an employee must work no less than 35 hours a week, calculated as $\text{Total Hours worked} / \text{Number of weeks worked} = 35$ or more hours worked per week; and
 - (3) Has full company benefits, including company paid health insurance (Employee must not be required to pay more than fifty percent (50%) of the premium) with such jobs being located at the Development, within the City of El Paso, Texas. These requirements are more completely described in Exhibit “E”, which is attached hereto and incorporated herein for all purposes.
- H. **“Grant”** The word ‘Grant’ means each annual payment to APPLICANT under the terms of this Agreement computed as the sum of the applicable rebates: (i) Construction Materials Sales Tax Rebate; (ii) Development Fee Rebate; and (iii) Property Tax Rebate. For the purposes of this Agreement, the aggregate Grant payments will not exceed **\$188,774.00**. This aggregate amount reflects the sum total of all applicable rebates.
- I. **“Grant Submittal Package”** means the documentation required to be supplied to City as a condition of receipt of any Grant, with such documentation more fully described in the Grant Submittal Package, which is attached as Exhibit C to this Agreement.
- J. **“Minimum Appraisal Value”** means the valuation of the Real Property and Personal Property appraised by El Paso Central Appraisal District during and after the construction or renovation of the Development. For the purposes of this Agreement, the Minimum Appraisal Value is **\$10,104,189.00**. Under no circumstances shall the Minimum Appraisal Value be interpreted to be equivalent of or determinative for appraisal purposes or to be used in any way to determine market value.
- K. **“Minimum Investment”** means those costs incurred, self-performed or contracted to third

parties by the Applicant over the course of the renovation or construction project or furnishing of the improvements for the Development. For purposes of this Agreement, the Minimum Investment is **\$4,400,000.00**.

- L. **“Personal Property Base Year Value”** means the value of the non-inventory, personal property on the El Paso Central Appraisal District rolls as of August 29 of the year in which this Agreement is executed with respect to the Development. However, under no circumstances shall the Personal Property Base Year Value be interpreted to be equivalent or determinative for appraisal purposes or to be utilized in any way to determine market value. For the purposes of this Agreement, this amount is **\$2,160,350**.
- M. **“Property Tax Rebate”** means a rebate of a percentage of the City’s portion of (1) the incremental ad valorem property tax revenue generated by the Development above the ad valorem property tax revenue that would have been generated at the Base Year Value for the Development for each tax year during the Grant Period; and (2) the incremental ad valorem real and personal property tax revenue generated by the Development above the ad valorem real and personal property tax revenue that would have been generated at the Property Base year Value for the Development for each tax year during the Grant Period (collectively, (1) and (2), the “Incremental Ad Valorem Property Tax Revenue”). The Incremental Ad Valorem Property Tax Revenue will be determined each tax year during the Grant Period based on the ad valorem property taxes due under the tax statements issued pursuant to the calculation formula described in Exhibit “D”, which is attached hereto and incorporated herein for all purposes. The Property Tax Rebate payments (i) for any calendar year shall not exceed **75** percent of the Incremental Ad Valorem Property Tax Revenue, and (ii) shall not exceed **\$161,774.00** (whichever comes first) during the grant period.
- N. **“Qualified Expenditures”** means the monetary expenditures paid or caused to be paid by Applicant after the Effective Date for material used in constructing or renovating the Development; and labor required for the construction or renovation of the Development.
- O. **“Real Property”** means the real property owned by Applicant located at **1255 Peter Cooper Dr.**, El Paso, Texas, and described on Exhibit A, which is attached and incorporated by reference. The Real Property is the location for Applicant’s proposed Development.
- P. **“Real Property Base Year Value”** means the value of the real property on the El Paso Central Appraisal District rolls as of January 1st of the year in which this Agreement is executed with respect to the Development. However, under no circumstances shall the Real Property Base Year Value be interpreted to be equivalent or determinative for appraisal purposes or to be utilized in any way to determine market value. For the purpose of this Agreement, this amount is **\$5,318,839**.
- Q. **“Vacant Building”** means a building that is 60% or more unoccupied and is registered as a vacant building with the City, pursuant to Title 18, Chapter 18.40, El Paso City Code.

SECTION 2. TERM AND GRANT PERIOD.

- A. This Agreement shall commence on the Effective Date and shall terminate on the first to occur of: (i) the date when the aggregate amount of Grants is paid; (ii) **13** years from the Effective Date; (iii) the proper termination of this Agreement in accordance with the applicable provisions contained herein; or (iv) termination by mutual consent of the parties in writing (“Term”).
- B. Applicant’s eligibility for Grant payments shall be limited to **10** consecutive years within the Term of this Agreement (the “Grant Period”). The first year of the Grant Period shall be the first tax year after the issuance of the certificate of occupancy for the Development. A temporary certificate of occupancy does not qualify as a certificate of occupancy.

SECTION 3. OBLIGATIONS OF APPLICANT.

A. DEVELOPMENT.

- (1) Applicant shall renovate or construct, at its sole cost and expense, the Development and shall expend a minimum of **\$4,400,000.00** in Qualified Expenditures to construct the Development.
- (2) Applicant shall obtain the first building permit for the Development within **6** months after the Effective Date.
- (3) Within **24** months after the Effective Date, Applicant shall submit documentation to the City to verify the following:
 - (a) The expenditure of a minimum of **\$4,400,000.00** in Qualified Expenditures; and
 - (b) That Applicant has received **Certificate of Occupancy** for the Development. A Temporary Certificate of Occupancy does not meet this requirement.
- (4) Applicant agrees that the Development shall not include the demolition of properties with a historic overlay that are deemed historic or contributing unless specifically approved by El Paso City Council.
- (5) Applicant agrees that Development shall be in accordance with the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City municipal code, where applicable.
- (6) Applicant shall diligently and faithfully in a good and workmanlike manner pursue the completion of the Development and that the construction of same will be in accordance with all applicable federal, state and local laws and regulations.
- (7) Applicant agrees that during the Term of this Agreement, the Real Property shall be limited to those uses consistent with the Development.

- (8) Applicant shall demonstrate, before the receipt of any Grant payments, that Applicant has incurred no delinquency taxes by providing certified city tax certificates for any parcel of property owned in the City of El Paso.
- (9) Applicant agrees that during the Term of this Agreement it shall not challenge or permit anyone else to take actions on its behalf to challenge any assessments by the El Paso Central Appraisal District of **\$10,104,189.00** or less. It is the intent of the parties that the assessed value of the Property on the tax rolls have a minimum appraised value of **\$10,104,189.00** during the Term of this Agreement. This property value should in no way be interpreted to affect the values set by the Central Appraisal District for tax purposes. Upon the termination of this Agreement, Applicant agrees that neither this Agreement, not the values contained within, will be utilized to contest appraisal values or in the determination of the market value of the Development.
- (10) Applicant, during normal business hours, at its principal place of business in El Paso, shall allow the City or its agents reasonable access to operating records, accounting books, and any other records related to the economic development considerations and incentives described herein, which are in Applicant's possession, custody, or control, for purposes of verifying the Qualified Expenditures and for audit, if so requested by the City. The confidentiality of such records will be maintained in accordance with all applicable laws.

B. EMPLOYMENT POSITIONS

- (1) Applicant agrees that it shall create, staff, and maintain the Full-Time Employment positions described in Exhibit D 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. Applicant shall maintain the Full-Time Employment positions for each quarter of each fiscal year with the total per day hours worked averaged over each fiscal quarter. The transfer of an existing Full-Time Employment position from Applicant's existing business site to Applicant's new Development does not qualify as creating and staffing a Full-Time Employment position for purposes of this Agreement.
- (2) Applicant shall provide the City with an annual report by **September 1st** of each year during the Term of this Agreement, certifying the status of compliance through the preceding year. Such annual report shall include the number of new jobs created and retained for the Development, information on any new investments in the Development, and any other information relevant to the Development and the City's economic development goals. Documentation for jobs may be in the form of quarterly IRS 941 returns, or Texas Workforce Commission Employer Quarterly Reports, or employee rosters that show the hours worked and the positions filled. Applicant shall also provide the City with such other reports as may reasonably be required.

C. GRANT SUBMITTAL PACKAGE.

In order to receive the disbursement of the Grant, the Applicant must submit a Grant Submittal Package electronically to EDCompliance@elpasotexas.gov, as specified below.

- (1) The Applicant shall annually submit one Grant Submittal Package which shall be in the form provided in Exhibit C, together with the requisite documentation. The Applicant shall submit to the City the initial Grant Submittal Package on **September 1, 2026**, or within 30 business days after this date. Thereafter, the Applicant's annual Grant Submittal Package must be submitted on or within 30 business days after **September 1st** of each year. A failure by the 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 year.
- (2) Concurrent with the submittal of a Grant Submittal Package, the Applicant will submit to the City documentation as may be reasonably necessary to verify the expenditure to date of the Minimum Investment, which has not otherwise been verified as part of a prior submittal. The City will provide to the Applicant a written explanation for any Minimum Investment that the City determines cannot be verified. The Applicant may submit additional documentation to the City in order to obtain verification.
- (3) The City's determination of the amount of the Grant payment due to the Applicant is final.

SECTION 4. OBLIGATIONS OF THE CITY.

During the Term of this Agreement, and so long as an Event of Default has not occurred and Applicant is in compliance with the Agreement, the City agrees as follows:

- A. The City agrees to provide a Construction Materials Sales Tax Rebate not to exceed **\$17,000.00** in accordance with the terms and provisions of this Agreement.
- B. The City agrees to provide a Development Fee Rebate not to exceed **\$10,000.00** in accordance with the terms and provisions of this Agreement.
- C. The City agrees to provide a Property Tax Rebate not to exceed **\$161,774.00** in accordance with the terms and provisions of this Agreement.
- D. The City will process any eligible Grant payment within **90 days** after receipt of the Applicant's annual Grant Submittal Package.

SECTION 5. EVENTS OF DEFAULT.

Each of the following Paragraphs A through D shall constitute an Event of Default:

- A. **Failure to Comply.** Applicant's failure to comply with, or to perform any obligation or condition of this Agreement or in any related documents, or Applicant's failure to comply

with or to perform any obligation or condition of any other agreement between the City and Applicant.

- B. **False Statements.** Any representation or statement made or furnished to the City by Applicant pursuant to this Agreement or any document(s) related hereto, that is/are false or misleading in any material respect; or if Applicant obtains actual knowledge that any such representation or statement has become 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 representation or statement within 10 days after Applicant learns of its false or misleading nature.
- C. **Insolvency.** Applicant files a voluntary petition in bankruptcy, a proceeding in bankruptcy is instituted against the Applicant and the Applicant is thereafter adjudicated bankrupt, a receiver for the Applicant's assets is appointed, or any assignment of all or substantially all of the assets of Applicant for the benefit of creditors of Applicant.
- D. **Property Taxes.** If Applicant allows its personal or real 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 30 days after written notice thereof from the City and/or El Paso Central Appraisal District.
- E. **Notice and Opportunity to Cure.** If an Event of Default occurs, the City will provide Applicant with written notice of the default and Applicant shall have 30 days from the receipt of said notice to cure the default (the "Cure Period"). If the default cannot be remedied within the Cure Period but the Applicant has made a diligent effort to effect a cure, the Cure Period may be extended at the City's sole discretion for a reasonable time. The City, in its sole discretion, shall determine what constitutes "a reasonable time" and what constitutes "a diligent effort" for purposes of this provision. If the City agrees to extend the Cure Period past the 30 days, the City shall notify the Applicant, in writing, of the expiration date of the extended cure period.
- F. **Failure to Cure.** If an Event of Default occurs and, after receipt of written notice and opportunity to cure as herein provided, the Applicant fails to cure the default in accordance with the provisions herein, then this Agreement may be terminated by the City by written notice to the Applicant at which time the City's obligations hereunder will end and the City may exercise any other right or remedy available at law or in equity.

SECTION 6. RECAPTURE.

Should the Applicant default under Section 5 of this Agreement and provided that the cure period for such default has expired, all Grants previously provided by the City pursuant to this Agreement shall be recaptured and repaid by Applicant within 60 days from the date of such termination.

SECTION 7. TERMINATION OF AGREEMENT BY CITY WITHOUT DEFAULT.

The City may terminate this Agreement without an event of default and effective immediately if any state or federal statute, regulation, case law, or other law renders this Agreement ineffectual, impractical or illegal, including any case law holding that a Chapter 380 Economic Development Agreement such as this Agreement is an unconstitutional debt.

SECTION 8. MISCELLANEOUS PROVISIONS.

- 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 both 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. **Applicant's Sale or Transfer of the Development.** 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 30 business days before the effective date of such sale or transfer.
- D. **Assignment.** 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 or Grants that are subject of this Agreement without the City's consent to assignment. 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 and recapture of the taxes rebated prior to the attempted transfer.
- 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. Applicant warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Applicant to the same.
- F. **Confidentiality Obligations.** The confidentiality of 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. To the extent permitted by state or federal law, the City shall maintain the confidentiality of any proprietary information and shall not copy any such information except as necessary for dissemination to the City's agents or employees 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. Applicant is not liable for a violation by its subsidiary, affiliate, or franchisee, or by a person which whom Applicant contracts.
- I. **Force Majeure.** The parties agree that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement 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 delayed.
- J. **Headings.** The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- K. **No Joint Venture.** The parties acknowledge and agree that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture between the parties. The City, its past, present and future officers, elected officials, employees and agents of the City, do not assume any responsibilities or liabilities to any third party in connection with the Development or the design, construction, or operation of the Development, or any portion thereof.
- L. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when (i) 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; (ii) sent via electronic transmission to the email addresses set forth below; or (iii) when delivered by hand-delivery. 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. Applicant shall provide all required Grant Submittal Packages and other required documentation to City electronically at the following address: EDcompliance@elpasotexas.gov

APPLICANT: Pablo Rodriguez
Owner
1255 Peter Cooper Dr.
El Paso, TX 79936

CITY: City of El Paso
City Manager
P.O. Box 1890
El Paso, Texas 79950-1890

Copy To: City of El Paso
Economic and Int'l Development
Department Director
P.O. Box 1890
El Paso, Texas 79950-1890
Email: EDCompliance@elpasotexas.gov

M. **Ordinance Applicability.** The signatories hereto shall be subject to all ordinances of the City, whether now existing or in the future arising.

N. **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 hereby execute this Agreement.

CITY OF EL PASO:

Cary Westin
Interim City Manager

APPROVED AS TO FORM:

Russell T. Abeln
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Elizabeth K. Triggs, Director
Economic & International Development

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

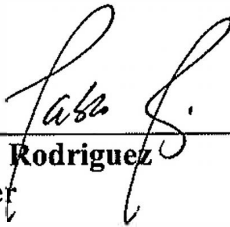
This instrument was acknowledged before me on the _____ day of _____, 20____,
by **Cary Westin** as **Interim City Manager** of the **City of El Paso, Texas**, on behalf of the City
of El Paso, Texas.

My Commission Expires:

Notary Public, State of Texas

[Signatures continue on the following page]

APPLICANT:
PROD Design & Analysis, Inc.




Pablo Rodriguez
Owner

ACKNOWLEDGMENT

STATE OF §
 §
COUNTY OF §

This instrument was acknowledged before me on the 21st day of August, 2023, by
Pablo Rodriguez as Owner for PROD Design & Analysis, Inc.



Notary Public, State of Texas

My Commission Expires:

11-18-2024

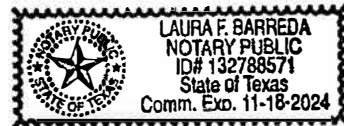


EXHIBIT A

Legal Description of the Real Property

538 VISTA DEL SOL #127 LOT 1 (5.3066 AC))

EXHIBIT B

Description of Development

The applicant plans to expand his existing business and structure by 30,000 square feet in order to target the Aerospace & Defense sector. This expansion will bring on an additional 48 associates, mostly engineers, over the next 5 years. Of note, **PROD Design & Analysis, Inc.**, is classified as a Certified Minority Business Enterprise and an Historically Underutilized Business.

Renderings/Building Plans:

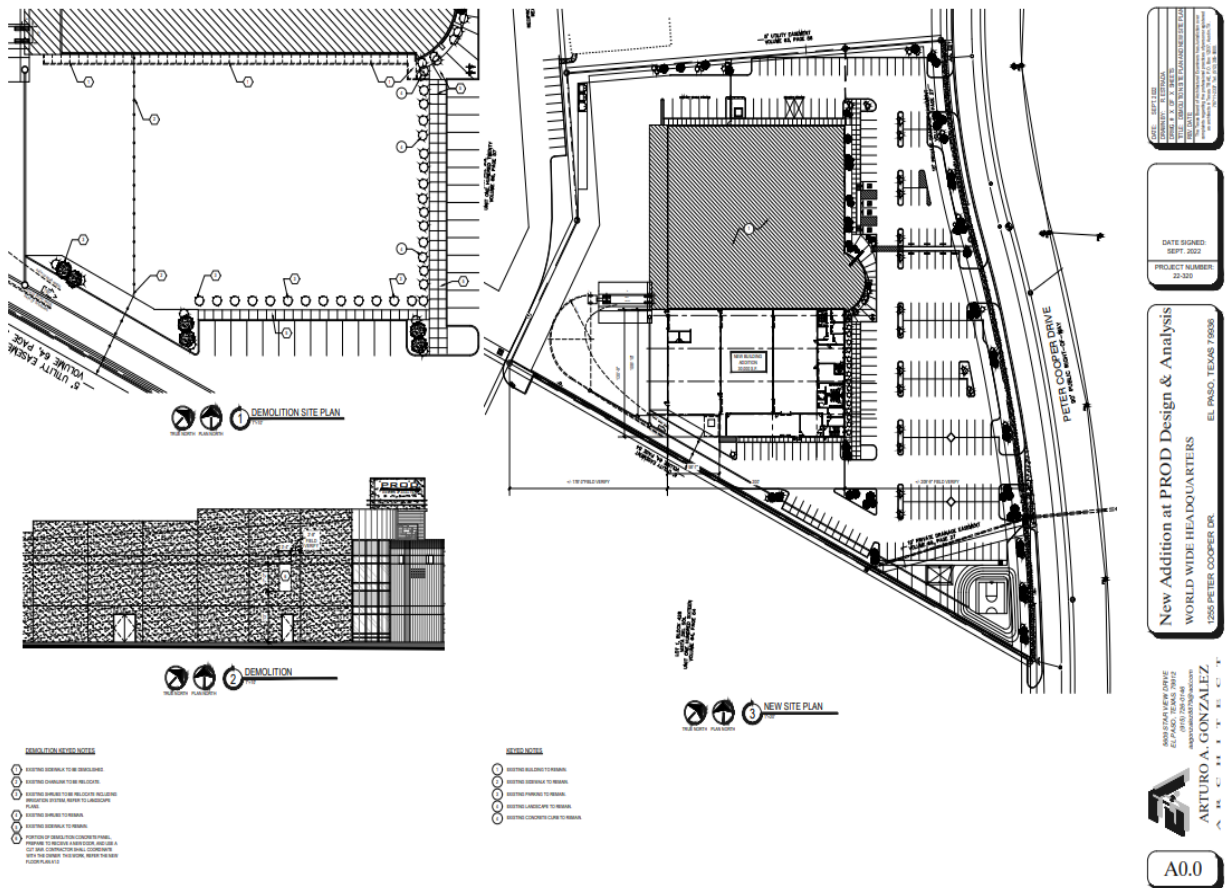


EXHIBIT C Grant Submittal

PROD Design & Analysis, Inc., believes that it has substantially met its obligations under the Chapter 380 Agreement dated the _____ day of ____ 20__ and signed by _____ of **PROD Design & Analysis, Inc.**, Pursuant to the Agreement, **PROD Design & Analysis, Inc.**, 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. Electronically to Email: EDCompliance@elpasotexas.gov;
2. Completed Grant Submittal Package Form
3. **[INITIAL GRANT SUBMITTAL ONLY]** Copy of Development Permits;
4. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation to evidence the amount of development fees paid as a result of the Development (receipts, invoices, bank and/or credit card statements, checks);
5. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation evidencing the materials and labor of Taxable Items used in the construction of the Development eligible for rebate to Applicant under the construction Materials Sales Tax Rebate (receipts, invoices, bank and/or credit card statements, checks);
6. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation to evidence **\$4,400,000.00** in minimum expenditures to date and not previously verified (receipts, invoices, bank and/or credit card statements, checks)
7. **[INITIAL GRANT SUBMITTAL ONLY]** Certificate of Occupancy or Lease
8. **[INITIAL GRANT SUBMITTAL ONLY]** 1295 Form
9. Property tax payment receipt showing proof of payment for calendar tax year being requested (real and personal **if applicable**):
10. Job Certification Report Spreadsheet with the following breakdown:

a. Employee Roster:

Last Name	First Name	Job Title	Hire Date	Termination Date	Job Category (New/retained)	Total Hours Worked in the Year	Weeks Worked in the Year	Hourly Wage	Gross Annual Salary	Employment Status (FT/PT)	Percentage employee pays for medical premium	Percentage company pays for medical premium

- b. Insurance Benefits Packet
- c. Employee Benefits Packet (pto, vacation, sick leave, etc.)
- d. 941 IRS Reports

It is understood by **PROD Design & Analysis, Inc** that the City of El Paso has up to ninety (90) days to process this request and reserves the right to deny the Grant request if the Applicant has not complied with the terms of the Agreement.

PROD Design & Analysis, Inc.

Name: _____

Title: _____

EXHIBIT D

Property Tax Rebate Table

Incremental Property Tax Rebate Schedule
Years 1-10
75%

EXHIBIT E

Employment Requirements & Grant Payment Eligibility

SECTION 1. MINIMUM JOB CREATION AND RETENTION REQUIREMENTS.

In order for the Applicant or its Affiliate to be eligible for any Grant Payments Applicant or its Affiliate is required to create and maintain the Full-Time Employment positions by December 31 of each full tax year during the Grant Period as follows:

	Year 1	Year 2	Year 3
Jobs retained	110	127	142
Jobs created	17	15	16
Total jobs	127	142	158

SECTION 2. ELIGIBILITY FOR GRANT PAYMENTS.

After Year 2, the Applicant must retain the total amount of full-time employment (FTE) positions shown for the remainder of the grant period, to be eligible to receive the Grant Payments. **PROD Design & Analysis, Inc** will retain **110** positions while also creating **48** new full-time jobs of which will meet the current Median County Wage (\$16.43/hr.).

The applicant or its Affiliate remains eligible for Grant Payments so long as the Total Full Time Employees, as stated in this Exhibit E, are met on an annual basis.

Grant payment shall be contingent upon Applicant's certification that it has maintained at least ninety percent (90%) of the minimum job creation and retention requirements during the full tax year, as required herein.

Grant payments will be reduced by ten percent (10%) for every one percent (1 %) drop in the job creation and retention numbers, noted in Section 1 of Exhibit E from 100% to 90%.

Example: For illustrative purposes only:

During the second year, Applicant creates and retains 95% (195) of the expected 205 FTE positions. Grant Payments will be reduced by 50% (10%per 1% of job creation shortfall).

Should the applicant fall below the 90% threshold, no Grant Payment will be owed to the Applicant for the Grant Period.