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Item – 49
December 3, 2019
Economic and Community Development

The Court hereby ordered and approved a motion approving of a Skills Development Program Grant Agreement with Ernst and Young U.S. LLP – Financial Services Organization for an amount not to exceed $100,000 for a term to begin upon effective date and terminate on December 31, 2030. (Record)

A motion was presented by County Commissioner Sergio "Chico" Rodriguez, duly seconded by County Commissioner Justin Rodriguez, which motion was voted on as follows: Commissioners S. Rodriguez, J. Rodriguez, Wolff, Calvert, and Judge Wolff voting "Aye".

Item Number: 49
(for Comm Ct use only)

AGENDA COORDINATION FORM
Bexar County Commissioners Court

Type of Agenda Item (Choose one): Ceremonial ☐ Special Presentation ☐ Time Certain ☐ Consent ☒ Individual ☐	
Sponsoring Office/Department: Economic & Community Development	Recipient Agency / Individual Name:
Contact Person: Deborah Carter	Phone Number: 335-0669 Court Date Requested: December 3, 2019
Presenter: David Marquez	Phone Number: 335-0669 Deadline for Action: December 3, 2019
Audio / Visual Presentation: Y ☐ N ☒	PowerPoint? Y ☐ N ☒ ADA Assistance Required (type): No
Official/Department Head Signature:	Small, Minority, Women-owned Business Enterprise (SMWBE): Impact: Y ☐ N ☒

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CAPTION:
Approval of a Skills Development Program Grant Agreement with the Ernst and Young U.S. LLP – Financial Services Organization Office for an amount not to exceed $100,000 for a term to begin upon effective date and terminate on December 31, 2030.

ESTIMATED PRESENTATION TIME: N/A

BACKGROUND:

At its November 14, 2018 meeting Commissioners Court directed staff to negotiate a grant agreement with the Ernst & Young US LLP.

Ernst and Young plans to make capital investments of at least $8.5M and create 600 new jobs while retaining their downtown site which currently employs 225 associates.

The a Skills Development Program Grant of up to $100,000 will be based on 100 new jobs paying at least $50,000 annually, excluding benefits, bonuses and commissions; $1,000 for each that are created and filled within the first three years beginning on December 31, 2019.

This item requests the Court's approval of the Skills Development Program Grant Agreement.

RECOMMENDED MOTION:
Approval of a Skills Development Program Grant Agreement with the Ernst and Young U.S. LLP – Financial Services Organization Office for an amount not to exceed $100, 000 for a term to begin upon effective date and terminate on December 31, 2030.

Item Number: _____
(For PRM use only)

FISCAL ASSESSMENT: APPLICABLE Yes ☒ No ☐ Fiscal Note ☐

1	Is this a revenue or expense?	Revenue ☐	Expense ☒
2	Dollar amount of revenue or expense associated with item?	$100,000	
3	Is this a budgeted revenue or expense?	Yes ☒	No ☐
4	Does this item require additional staff?	Yes ☐	No ☒
5	Will this increase your current budget?	Yes ☐	No ☒
6	Impact on future Budget? If Yes, Explain in Comments.	Yes ☐	No ☒
7	Current End-of-Year Expenditure Estimate-for impacted Object Code(s)?	$1,781,000	
8	If an expense, what is the current Object Code budget amount?	$1,996,333	
9	If an expense, are sufficient funds currently budgeted in the Object Code?	Yes ☒	No ☐
10	If an expense, are sufficient funds currently budgeted in the Appropriation	Yes ☒	No ☐
11	List impacted offices or departments or note if countywide:	Economic Community & Development	
12	Company:	815- Community Infrastructure and Economic Development	
13	Accounting Unit / Account Category:	5100- Economic Community & Development	
14	Activity:	CIED20301 (Skills Development)	
15	If this is a grant, what is the estimated amount of program income?		
16	If this is a grant, what is the amount of Grantor funding?		
17	If this is a grant, what is the required County cash match?		
18	If this is a grant, what is the required County in-kind/allocation match?		
19	If this is a grant, was item approved by the Grant Review Committee?	Yes ☐	No ☐
20	Comments: At the November 14, 2017 meeting, the Commissioners Court directed staff to negotiate a Skills Development Program Grant agreement with Ernst & Young up to $100,000 will be based on 100 new jobs paying at least $50,000 annually, excluding benefits, bonuses and commissions; $1,000 for each that are created and filled within the first three years beginning on December 31, 2019. Ernst & Young – Financial Services Organization Office is expected to create and maintain 100 jobs in year 1. In FY 2019-20, $1,996,333 was budgeted for Skills Development. Of this amount, $100,000 was budgeted for this contract. With this approval, there is will be $165,333 remaining. There is sufficient funding to cover this expense.		
21	Coordinated by: Monica Martinez	Verified By: Alexandria Millan 10/25/19	

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STATE OF TEXAS	§	
	§	**GRANT AGREEMENT**
COUNTY OF BEXAR	§	

This Grant Agreement (the "Agreement") is hereby made and entered into as of the date of the last signature set forth on the signature page below ("Effective Date"), by and between BEXAR COUNTY, a political subdivision of the State of Texas ("COUNTY"), duly acting herein by and through the Bexar County Commissioners Court (the "Commissioners Court") for and on behalf of COUNTY, and Ernst & Young U.S. LLP, a Delaware limited liability partnership authorized to do business in the State of Texas ("COMPANY"). COUNTY and COMPANY may be referred to in this Agreement individually as "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Texas Legislature has determined through Section 381.004(b)(1), (3) and (4) of the Texas Local Government Code (the "Code") that a public purpose is served by a county stimulating business and commercial activity by developing and administering a program for: state and local economic development, for stimulating, encouraging and developing business location and commercial activity, and promoting and advertising a county in order to attract visitors and businesses, and a county commissioners court may grant public money towards such a program; and

WHEREAS, COMPANY provides audit, tax, business risk, technology and security risk services, and human capital services with more than 40,000 personnel working in the United States; and has leased the second floor of a building in Farinon Business Park located at 12707 Silicon Drive, San Antonio, TX 78249 (the "Facility") to open a financial services office; and

WHEREAS, the COUNTY has determined that making an economic development grant to COMPANY in accordance with this Agreement will further the objectives of the COUNTY and benefit the COUNTY and its residents and serve the broader purpose of stimulating and encouraging business and commercial activity in the COUNTY, retaining and expanding job opportunities and building the property tax base; and

WHEREAS, pursuant to Section 381.004(c)(1) of the Code, the COUNTY may contract with another entity, including a municipality, non-profit organization, or any other person, to administer a program for local economic development; and

WHEREAS, COUNTY, through approval and execution of this Agreement, hereby establishes a community and economic development program, pursuant to Section 381.004(b) and (h) of the Code, through a grant of public money to COMPANY;

NOW, THEREFORE, upon and in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

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ARTICLE I
GENERAL TERMS

1.01 The foregoing recitals are incorporated into the terms of this Agreement and shall be binding on the Parties.

1.02 The signer of this Agreement for COMPANY represents, warrants, and assures that he or she has full legal authority to execute this Agreement on behalf of COMPANY and to bind COMPANY to all terms, performances and provisions herein contained.

1.03 In the event that a dispute arises as to the legal authority of either COMPANY, or the person signing on behalf of COMPANY, to enter into this Agreement, COUNTY shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement. Should COUNTY suspend or permanently terminate this Agreement pursuant to this paragraph, COMPANY shall be liable to COUNTY for the Funds.

1.04 In no event shall COUNTY be liable for any expense of COMPANY not eligible or allowable hereunder, and in no event shall employees of COMPANY be deemed to be employees of COUNTY.

1.05 COMPANY and COUNTY agree that COMPANY is a for-profit business, that COMPANY shall be responsible to all Parties for its respective acts and omissions, and that COUNTY shall in no way be responsible therefore, and that neither has authority to bind the other, or hold out to third Parties that it has the authority to bind the other.

1.06 COMPANY warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any other agreement or understanding for a commission, percentage, brokerage, or contingent fee, and further that no such understanding or agreement exists or has existed, with any employee of COMPANY or COUNTY.

1.07 The Funds (as defined in Section 3.01) provided pursuant to this Agreement will be paid solely from lawfully available funds that have been appropriated by the COUNTY. Under no circumstances will the COUNTY's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Consequently, notwithstanding any other provision of this Agreement, the COUNTY has no obligation or liability to pay any Funds unless the COUNTY appropriates Funds to make such payment during the fiscal year in which such Funds are payable.

1.08 COMPANY may use the Funds (as defined in Section 3.01) provided hereunder either directly or indirectly as a contribution in order to obtain any federal funds under any federal program that is consistent with the program objectives herein, upon prior written approval by COUNTY's Economic Development Department.

1.09 COMPANY is required to publicly acknowledge that the COUNTY is supportive of the objectives as described in this Agreement and has contributed to the cause of realizing such objectives.

1.10 COMPANY acknowledges that this Agreement cannot be assigned without the express written consent of COUNTY.

1.11 COMPANY shall not use the Funds from this Agreement for purposes other than those listed in this Agreement without prior written consent of the COUNTY's Economic Development Department.

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ARTICLE II
TERM & TERMINATION

2.01 Except as otherwise provided for pursuant to the provisions hereof, this Agreement shall be effective as of the Effective Date and shall terminate on December 31, 2030 ("Term").

2.02 COMPANY understands and agrees that this Agreement is subject to mutual termination. Therefore, either Party shall have the option of terminating this Agreement by giving the second Party no less than thirty (30) days written notice. Such notice shall specify the effective date of termination, which date shall not be sooner than the end of thirty (30) days following the day on which such notice is sent. If either Party exercises the option of terminating this Agreement any and all unused Funds either allocated and in possession of COMPANY or unallocated and in the possession of COUNTY shall be the sole property of COUNTY and COUNTY shall have the right to:

(a) Reclaim any and all Funds unused but distributed to COMPANY under the terms of this Agreement; or

(b) Retain any and all Funds allocated but not distributed to COMPANY.

2.03 Should COMPANY fail to fulfill its obligations as set forth in Article III of this Agreement, or, if COMPANY should materially violate any of the other covenants, conditions, representations, or stipulations of this Agreement, then COUNTY shall provide a written notice to COMPANY. If COMPANY fails to cure a violation as set forth in the written notice from COUNTY within sixty (60) days after receipt of the notice ("Cure Period"), then this Agreement shall terminate immediately upon expiration of the Cure Period without further action by the COUNTY. The COUNTY may, in its sole discretion, extend the Cure Period if COMPANY begins to cure a violation within the Cure Period and COMPANY diligently pursues such cure.

(a) Previous breach of any of the terms or conditions herein shall not be construed as a waiver of same nor preclude COUNTY's termination right for successive breach of the same condition.

(b) Notwithstanding the above, COMPANY shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement and COUNTY may withhold Funds otherwise due as damages.

(c) In addition to the above provisions, the COUNTY shall have the right to terminate this Agreement at any time upon a finding by order that: 1) COMPANY's activities, programs or operations are illegal; or 2) COMPANY's business activity, operations

and/or use of its facility (to include the transfer of the rights and responsibilities under this Agreement or the assignment of this Agreement to another entity resulting from a merger, reorganization, or any other form of business combination) as represented in this Agreement have substantially changed during the Term of this Agreement and COMPANY failed to seek the prior written approval of Commissioners Court for such change. Adequate provisions shall be made for COMPANY to be heard by Commissioners Court prior to voting on such an order and the effective date of the termination shall be set out therein.

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2.04 Should this Agreement be terminated by COMPANY for any reason or by the COUNTY for COMPANY's breach or as otherwise set forth in Section 2.03 and the program objectives are not fully completed as stated in this Agreement, COMPANY agrees that it shall refund the Funds paid by COUNTY to COMPANY in accordance with Article V, Section 5.02 of this Agreement.

ARTICLE III
EMPLOYMENT COMMITTMENT

3.01 This Agreement is conditioned on COMPANY creating and maintaining the agreed number of Employment Positions at the Facility and complying with the additional employment commitments described in this Article III throughout the Term.

3.02 As further consideration supporting this Agreement, COMPANY covenants and agrees that it will create and fill not less than Six Hundred (600) new Employment Positions in Bexar County over and above the Employment Baseline (the "***Employment Commitment***") as follows:

EMPLOYMENT COMMITMENT SCHEDULE		
Year	**Number of Additional Employment Positions Created**	**Total Employment Positions**
(2020)	100 Employment Positions	100
(2021)	100 Employment Positions	200
(2022)	100 Employment Positions	300
(2023)	150 Employment Positions	450
(2024)	150 Employment Positions	600

COMPANY covenants and agrees that it will create One Hundred Ninety-Two (192) new employment positions with a minimum salary of Fifty-Thousand Dollars ($50,000.00) per year at the Facility. COMPANY further covenants and agrees that once its Employment Commitment is achieved pursuant to the schedule outlined above, it will maintain not less than the cumulative total number of Employment Positions in the Zone as described by the above Employment Commitment Schedule ("***Total Employment Positions***") through the Term.

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3.03 COMPANY further covenants and agrees that once its Employment Commitment is achieved pursuant to the schedule outlined above, it will maintain not less than the cumulative total number of Employment Positions at the Facility as required in each year throughout the Term of this Agreement.

3.04 COMPANY agrees that from the Effective Date throughout the Term of this Agreement, one hundred percent (100%) of all Employment Positions at the project location shall be paid a minimum wage, not including benefits, of at least eleven dollars and eighty-three cents ($11.83) per hour.

3.05 COMPANY agrees that within one year from the Effective Date, seventy percent (70%) of all new and existing Employment Positions at the project location shall be paid a minimum wage, not including benefits, of at least fifteen dollars and sixty-nine cents ($15.69) per hour.

3.06 COMPANY agrees to make a good faith effort to fill at least twenty-five percent (25%) of the new Employment Positions created and maintained with qualified Bexar County residents.

3.07 COMPANY agrees that all of the Employment Positions created to comply with the Employment Commitment described in Article III, Paragraph 3.02 shall be entitled to Employee Benefits within one year from date of employment. COMPANY agrees that during each year of the Term of this Agreement, it will continue to offer all of its Employment Positions an employee benefits package for the Employment Positions that is similar to the benefits package described in Article I, Paragraph 1.05 and attached as Exhibit "A," or as may be modified from time to time corporate wide.

3.08 COMPANY agrees not to engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, disability, or political belief or affiliation.

3.09 COMPANY agrees to comply with all applicable federal and state laws governing the employer-employee relationship including, but not limited to, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Family and Medical Leave Act, and Title I and V of the Americans with Disabilities Act.

3.10 COMPANY also agrees that it shall conduct its Business Activities in accordance with all applicable federal, state and local laws.

3.11 COMPANY agrees to furnish COUNTY with semi-annual reports substantially similar to Exhibit "B," certifying as to its compliance with the Employment Commitment and shall include information on the number of new Employment Positions created, and the total Employment Positions retained and maintained. COMPANY further agrees that the reports shall certify as to the number of Bexar County residents employed by COMPANY and the salaries of the individuals in Employment Positions at the Facility, including those

Employment Positions created in accordance with Article III, Paragraph 3.02. COMPANY agrees to submit the reports by March 1st (covering the period July 1 through December 31) and September 1st (covering the period January 1 through June 30) of each year during the Term of this Agreement. Upon ten (10) business days prior notice by COUNTY to COMPANY, COUNTY and its employees and agents shall have access to the Facility for the purpose of viewing the payroll registers and related backup information to verify the information provided in the reports.

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ARTICLE IV
GRANT AND DISBURSEMENT

4.01 Pursuant to the terms and conditions of this Agreement, the COUNTY shall grant to COMPANY a sum not to exceed the amount of **ONE HUNDRED THOUSAND DOLLARS ($100,000.00)** to be paid as described in Section 4.02 below (the "Funds").

4.02 Subject to COMPANY meeting its employment commitment, the Funds shall be disbursed by the COUNTY in accordance with the Prompt Payment Act, Texas Government Code Chapter 2251, on an annual basis commencing on December 31, 2019. The amount of the disbursement shall be an amount equivalent to One-Thousand Dollars ($1,000) multiplied by the number of New Employment Positions created and maintained for the annual period in addition to any other New Employment Positions previously claimed under this Agreement. For example, if one hundred twenty (120) New Employment Positions are claimed on the December 31, 2020, and ten (10) of those positions are unfilled in the 2021, but one hundred (100) more positions are created in the 2021 period, the net New Employment Positions for 2021 will be ninety (90).

ARTICLE V
RECAPTURE OF GRANT FUNDS

5.01 The COUNTY shall have the right to recapture all Funds paid to COMPANY pursuant to this Agreement (upon delivery of notice and expiration of the Cure Period as set forth in Article II, Section 2.03) if COMPANY: a) fails to create, fill and maintain the Employment Positions as described in Articles III and IV above and maintain the same until the expiration of the Term of this Agreement, ("Event of Recapture").

5.02 Upon the occurrence of an Event of Recapture, COMPANY shall repay all Funds disbursed to COMPANY pursuant to this Agreement in accordance with the schedule below ("Recapture Schedule") within ninety (90) calendar days from the date the Cure Period has expired, plus interest at the prime lending rate from the date of termination until all Funds are fully repaid. The Funds subject to recapture by the COUNTY shall be calculated by multiplying the total Funds received by the percentage applicable to the calendar year in which the written notice of termination is sent as detailed in the following Recapture Schedule:

RECAPTURE SCHEDULE	
Year in which Notice Resulting in Termination is Sent:	**Total Funds Previously Received Shall be Multiplied by:**
On or before December 31, 2024 (the "Initial Period")	100%
Year 1 (2025)	100%
Year 2 (2026)	80%
Year 3 (2027)	60%
Year 4 (2028)	40%
Year 5 (2029)	20%
Year 6 (2030)	10%

5.03 The COUNTY shall have the right to take any action to which it may be entitled, at law or in equity, against COMPANY, in addition to termination and/or recapture as described herein, in order to recapture Funds the COUNTY is entitled to receive pursuant to this Article V.

ARTICLE VI
REPRESENTATIONS, WARRANTIES AND COVENANTS

6.01 COMPANY represents, warrants, assures and guarantees that it possesses the legal authority to enter into this Agreement and to perform the responsibilities herein required.

6.02 COMPANY warrants and represents that it is a Delaware limited liability partnership duly formed in the State of Delaware and validly existing and in good standing under the laws of the State of Delaware and has all power and authority to conduct its business as presently conducted. Additionally, COMPANY warrants and represents that: it is registered to do business in the State of Texas, is authorized to transact such business, and is in good standing under the laws thereof, including the payment of all applicable taxes, fees, and/or fines and shall remain so throughout the Term of this Agreement.

6.03 COMPANY further represents and warrants that:

(a) The job incentives application heretofore provided to COUNTY shall be and shall remain complete and accurate as of the date shown on the information, data or report, and that since said date shown, shall not have undergone any significant change without written notice to COUNTY;

(b) None of the provisions contained herein contravene or in any way conflict with the authority under which COMPANY is doing business or with the provisions of any existing indenture or agreement of COMPANY;

(c) COMPANY has the legal authority to enter into this Agreement and accept payments hereunder, and has taken all necessary measures to authorize such

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execution of contract and acceptance of payments pursuant to the terms and conditions hereof; and

(d) None of the assets of COMPANY located physically at COMPANY's facility in Bexar County, Texas are subject to any lien or encumbrance of any character, except as shown in the financial statements provided by COMPANY to COUNTY.

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ARTICLE VII
MONITORING & AUDITING

7.01 The COUNTY's Economic Development Department is assigned monitoring responsibility for this Agreement. COMPANY will provide COUNTY's staff, including internal auditors and other persons as designated by COUNTY, such as independent public accountants and representatives of the federal government, access during regular business hours, as deemed necessary by COUNTY for the purposes of auditing, monitoring, evaluating, coordinating, investigating and making excerpts and/or copies of any and all of COMPANY's books, records and files necessary to ensure COMPANY's compliance with, and fulfillment of, all representations, terms, and/or conditions contained in this Agreement.

7.02 All such records shall continue to be available for inspection and audit for a period of three (3) years after the termination date hereof. However, if during the course of this three-year period, an audit or investigation of the COMPANY begins then COMPANY is required to maintain said records until such time as the audit or investigation is completely finished.

7.03 COMPANY agrees that during the Term of this Agreement, any duly authorized representative of COUNTY's Economic Development Department shall have the right to conduct on-site inspections at reasonable times and to interview personnel for the purposes of evaluating and monitoring the objectives for compliance with this Agreement.

7.04 The submission of falsified information or the failure to timely submit all information by COMPANY as requested by COUNTY is grounds for termination of this Agreement.

ARTICLE VIII
FISCAL MANAGEMENT

8.01 COMPANY shall establish and use internal accounting and administrative controls to preclude theft, embezzlement, improper inducement, obstruction of investigation or other criminal action and to prevent frauds and program abuse. Subject to Section 8.06 herein, COUNTY may review COMPANY's system of internal administrative and accounting controls, as reasonably necessary to ensure financial responsibility.

8.02 COMPANY shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement and COUNTY may withhold Funds otherwise due as damages.

8.03 Should any expense or charge that has been paid with Funds from this Agreement be subsequently disapproved or disallowed as a result of any site review or audit, COMPANY

will promptly refund such amount to COUNTY. COMPANY further authorizes COUNTY, if COUNTY so elects, to deduct such amount or charge as a claim against future payments. The COUNTY's Economic Development Department has the express authority to deduct such claims from subsequent reimbursements.

8.04 Audit Conditions and Requirements:

(a) The COUNTY, a political entity, unlike a business for profit, is more interested in knowing if entities have accomplished or achieved the objectives as stipulated in their contracts and/or agreements, as opposed to certifications that the Balance Sheet fairly represents the financial position at a given date. Therefore, it is essential that the COUNTY is made aware of progress made under this Agreement. Following 30 days after a written request by the COUNTY, COMPANY shall submit a written report in respect of the number of New Positions created and maintained.

(b) It is imperative any auditor performing an audit of COMPANY read the entire Agreement, including all attachments, between the COUNTY and COMPANY, since the budget and financial compliance of the Agreement is only a portion of the total contractual obligation.

(c) All COUNTY-funded contracts and agreements, including this Agreement, are subject to periodic audits at any reasonable hour of the day by COUNTY auditors. This includes the auditing of both COMPANY and subcontractors related to this Agreement.

(d) In the event COMPANY expends federal or state funds exceeding the single audit threshold amount in effect during the period of this contract, any resulting audit shall be conducted in accordance with the Single Audit Act Amendments of 1996 and the U.S. Office of Management and Budget Circular A-133 (June 1997 revision), and/or the State of Texas Single Audit Circular.

8.05 COMPANY understands and agrees to abide by and adhere to applicable federal, state and COUNTY provisions regarding financial accounting.

8.06 Any audits contemplated by this Grant Agreement shall be governed as set forth in this subsection 8.06. Upon no less than two (2) weeks prior written notice, COMPANY shall grant access to relevant paper and electronic records, books, documents, accounting procedures, practices or any other items for the sole purpose of verifying COMPANY's performance under this Agreement. In no event shall such access include any access to any personal and/or medical data of any employees of COMPANY. In addition, COMPANY shall not be required to disclose to COUNTY's Economic Development Department any information that COMPANY is required by law to keep confidential or information unnecessary to a determination pursuant to Article VII, Section 7.01 above.

8.07 If COMPANY believes information required to be disclosed to the COUNTY pursuant to the above Article VIII, Section 8.06 is confidential or proprietary in nature, whether by law

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or policy, COMPANY agrees that it shall clearly mark and designate such information prior to providing the same to the COUNTY. To the extent possible, upon a request for the COUNTY to disclose such information under the Texas Open Records Act (Tex. Government Code Ann. § 552.001 et seq.) or equivalent or successor statute (the "Act"), the COUNTY shall attempt to notify COMPANY of such request. COMPANY shall then assume all responsibility for preparing appropriate responses and/or filings to the Texas Attorney General and/or to any other person or entity relating to such request, including any appeals involved therein, in order to prevent a disclosure of such information. To the extent this provision is in conflict with the Act, the same shall be of no force and effect. The Parties expressly agree that the COUNTY shall not be liable for any disclosure by the COUNTY and/or a failure of the COUNTY to notify COMPANY pursuant to this provision.

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ARTICLE IX
INDEMNIFICATION

9.01 TO THE EXTENT PERMITTED BY LAW, COMPANY covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the COUNTY and the elected officials, employees, officers, directors, and representatives of the COUNTY, individually or collectively, (the COUNTY Indemnitees") from any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death, property damage, or a failure by COMPANY, and/or TITLE HOLDER or TITLEHOLDER'S PREDECESSORS IN TITLE to comply with any local, state or federal ENVIRONMENTAL LAW OR REGULATION (collectively "Damages"), made upon the COUNTY that may be suffered or incurred by the COUNTY Indemnitees directly or indirectly arising out of, resulting from, or related to COMPANY's activities under this Agreement, including any negligent acts or omissions of COMPANY, any agent, officer, director, representative or employee of COMPANY while in the exercise or performance of the rights or duties under this AGREEMENT, all without, however, waiving any governmental immunity available to the COUNTY under Texas Law and without waiving any defenses of the Parties under Texas Law. COMPANY shall have no obligation to indemnify and hold harmless the COUNTY Indemnitees to the extent that such Damages arise from: (i) the negligence or willful misconduct of the COUNTY Indemnitees; or (ii) the breach by the COUNTY Indemnitees of its warranties, covenants or other agreements contained herein. The provisions of this indemnity are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. COMPANY shall promptly advise the COUNTY in writing of any claim or demand against the COUNTY or COMPANY known to COMPANY related to or arising out of COMPANY's activities under this Agreement and shall see to the investigation and defense of such claim or demand at COMPANY's cost. The COUNTY shall have the right, at its option and at COMPANY's expense, to participate in such defense without relieving COMPANY of any of its obligations under this Article IX.

Notwithstanding any other provision of this Agreement to the contrary, this indemnity shall survive the termination of this Agreement.

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ARTICLE X
NON-DISCRIMINATION

10.01 In the performance of this Agreement, COMPANY warrants that it will not discriminate against any employee or subcontractor on account of race, color, sex, religious creed, age, national origin, or handicap. Furthermore, COMPANY agrees not to discriminate against any client on account of race, color, religious creed, ancestry, age, national origin, mental and physical disability, veteran status, or sexual orientation. With respect to nondiscrimination and equal opportunity, all notices, advertisements and solicitation placed by COMPANY will be in accordance with federal law, rules, or regulations.

10.02 In the event of COMPANY's failure or refusal to comply with this nondiscrimination clause, this Agreement may at the COUNTY'S sole discretion, be canceled, terminated or suspended in whole or in part if COMPANY fails to remedy this non-compliance within the Cure Period.

ARTICLE XI
MINORITY AND SMALL BUSINESS

11.01 In all subcontracts COMPANY will endeavor to include the utilization of minority and small business suppliers, and shall provide an annual report throughout the Term of this Agreement indicating COMPANY's performance in utilizing such suppliers.

ARTICLE XII
LEGAL/LITIGATION EXPENSES

12.01 Under no circumstances will the Funds received under this Agreement or any other funds received from COUNTY be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the COUNTY or any other government entity. COMPANY must obtain the written approval of the COUNTY Attorney's Office before any Funds received under this Agreement may be used in any adversarial proceeding against any other governmental entity or any other public entity.

12.02 During the Term of this Agreement, if COMPANY files and/or pursues an adversarial proceeding against the COUNTY then, at the COUNTY's option, this Agreement and all access to the funding provided for hereunder may terminate.

12.03 Each Party shall bear its own costs, including, but not limited to, attorneys' fees, for any action at law or in equity brought to enforce or interpret the provisions of this Agreement. Notwithstanding the foregoing, nothing contained in this Section shall impact or otherwise affect the indemnity provisions contained in Article IX above.

12.04 COMPANY, at COUNTY's option, could be ineligible for consideration to receive any future funding while any adversarial proceedings against the COUNTY remains unresolved.

12.05 For purpose of this Article, "adversarial proceedings" shall include any cause of action filed by COMPANY in any state or federal court, as well as any state or federal administrative hearing.

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ARTICLE XIII
CHANGES AND AMENDMENTS

13.01 Except when the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by both COUNTY and COMPANY.

13.02 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the Term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of such rule, regulation or law.

13.03 COMPANY agrees to notify COUNTY in writing of any proposed change in physical location for work to be performed pursuant to the terms of this Agreement. Such notice shall be provided by COMPANY to COUNTY at least thirty (30) calendar days in advance of the proposed change.

ARTICLE XIV
SEVERABILITY OF PROVISIONS

14.01 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the COUNTY Code, COUNTY resolution, COUNTY order, City Charter, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not effect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

ARTICLE XV
NON-WAIVER OF PERFORMANCE

15.01 No waiver by COUNTY or COMPANY of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of COUNTY or COMPANY to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either Party hereto of any provision of this Agreement

shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged.

15.02 No act or omission of COUNTY or COMPANY shall in any manner impair or prejudice any right, power, privilege, or remedy available to COUNTY or COMPANY hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

15.03 No representative or agent of COUNTY or COMPANY may waive the effect of the provisions of this Article.

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ARTICLE XVI
ENTIRE AGREEMENT

16.01 This Agreement constitutes the final and entire agreement between the Parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto unless the same be in writing, dated subsequent to the date hereof, and duly executed by the Parties.

ARTICLE XVII
NOTICE

17.01 All notices provided to be given under this Agreement shall be in writing, and shall either be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid, and addressed to the proper Party at the address which appears below, or at such other address as the Parties hereto may hereafter designate in accordance herewith. All notices given by mail shall be deemed to have been given at the time of deposit in the United States mail and shall be effective from such date.

If to COUNTY:	County Judge 101 West Nueva Street, Suite 1019 San Antonio, Texas 78205-3482 Attn: Tax Abatement Agreement
with a copy to:	Bexar County Auditor 101 West Nueva Street, Suite 800 San Antonio, Texas 78205-3445
and,	Executive Director Economic Development Department 101 West Nueva Street, Suite 944 San Antonio, Texas 78205-3450

and, Chief, Civil Section
Bexar County District Attorney's Office
101 West Nueva
San Antonio, Texas 78205

If to COMPANY:

Ernst & Young U.S. LLP
Attn: Win Williamson
201 N Franklin Street, Suite 2400
Tampa, FL 33602

And for copies for any notices of default, to:

Ernst & Young U.S. LLP
Attn: General Counsel's Office
5 Times Square
New York, NY 10036

17.02 Notice of changes of address by either Party must be made in writing and delivered (or mailed, registered or certified mail, postage prepaid) to the other Party's last known address within five (5) business days of such change.

ARTICLE XVIII
PARTIES BOUND

18.01 This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, except as otherwise expressly provided for herein.

ARTICLE XIX
GENDER

19.01 Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

ARTICLE XX
RELATIONSHIP OF PARTIES

20.01 Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third party as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the Parties hereto.

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ARTICLE XXI
TEXAS LAW TO APPLY

21.01 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of law principles that would require the application of the laws of any other state. Venue for any action (including any action brought under Federal Law in Federal Court) brought hereunder will be exclusively in Bexar County, Texas.

ARTICLE XXII
CAPTIONS

22.01 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

ARTICLE XXIII
CERTIFICATION

23.01 COMPANY by execution of this Agreement, certifies, warrants, and represents that it is in full compliance with chapter 2264 of the Texas Government Code (the "Code") and that a violation, as set forth in section 2264.051 of the Code, shall constitute a breach of this Agreement and this Agreement shall terminate without necessity of the thirty (30) day notice requirement contained in Article II herein above. The COUNTY shall provide written notice to COMPANY of such a breach and within one hundred twenty (120) days after notice is sent, COMPANY shall repay all amounts received pursuant to this Agreement with interest to be calculated at the maximum legal rate as established under Texas law. The COUNTY, in its sole discretion, may extend the period for repayment set forth herein. In addition, COMPANY agrees to pay all costs and expenses, including attorney's fees, incurred by the COUNTY in enforcing this provision.

ARTICLE XXIV
REQUIRED CERTIFICATIONS

24.01 By execution of this Agreement, the undersigned representative of and duly authorized agent for COMPANY verifies and represents and warrants that:

a) In accordance with Texas Government Code § 2270, COMPANY does not boycott Israel currently and will not boycott Israel during the Term of this Agreement; and

b) In accordance with Texas Government Code § 2252, COMPANY is not entered on the list prepared pursuant to Section 2252.152 of the Texas Government Code and does not enter into contracts, provide goods or services, or otherwise do business with any company identified on the list prepared under the provisions of Section 2252.153 of the Texas Government Code.

EXECUTED IN DUPLICATE ORIGINALS, EACH OF WHICH SHALL HAVE THE FULL FORCE AND EFFECT OF AN ORIGINAL, ON THIS THE _____, DAY OF _____, 2019.

COUNTY OF BEXAR:

NELSON W. WOLFF
County Judge

DATE: 12-3-2019

ERNST & YOUNG U.S. LLP

Name: ANDREW M. BEAKEY III
Title: PARTNER

DATE: 9/27/19

APPROVED AS TO LEGAL FORM:

Criminal District Attorney
County of Bexar, Texas

By: _____
GERARD A. CALDERON
Assistant Criminal District Attorney
Civil Section

APPROVED AS TO FINANCIAL CONTENT:

LEO S. CALDERA, CIA, CGAP
County Auditor

DAVID SMITH
County Manager

APPROVED:

DAVID MARQUEZ
Executive Director of Economic Development

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EXHIBIT "A"
Employee Benefits

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EXHIBIT "B"
Employment Compliance Report

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