BUILDING PERMITS AND INSPECTIONS

MEMORANDUM

TO: The Honorable Mayor and City Council
Jim Martinez, Chief Administrative Officer
Patricia D. Adauto, Deputy CAO for Building and Planning Services

FROM: R. Alan Shubert, P.E., Director of Building Permits and Inspections

SUBJECT: 3rd Party Ordinance and Accompanying Resolution and Selection Procedure

DATE: April 22, 2004

Attached for your review is the Ordinance for Third Party Plan review and accompanying Resolution and Selection Procedures for Third Party Plan Review Companies. The Ordinance will be introduced on the City Council Agenda on Tuesday, April 27, 2004. The resolution will be introduced May 11, 2004 so that both items can be acted on in the same session.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 18 (BUILDINGS AND CONSTRUCTION), CHAPTER 18.02 (BUILDING AND CONSTRUCTION ADMINISTRATIVE CODE), OF THE EL PASO MUNICIPAL CODE, TO ADD SECTION 18.02.101.4.9 (SELECTION PROCEDURES FOR THIRD PARTY PLAN REVIEW SERVICES) TO PROVIDE FOR THE REVIEW OF PLANS AND PERMIT DOCUMENTS BY APPROVED THIRD PARTY COMPANIES AND TO ENUMERATE A SELECTION PROCEDURE FOR SAID COMPANIES.

WHEREAS, the City of El Paso, by Ordinance 14728, adopted the "International Building Code"; and,

WHEREAS, pursuant to the "International Building Code", the Building Official shall examine or cause to be examined applications for permits and amendments thereto; and,

WHEREAS, the City has received recommendations to allow said examination to be performed by a third party company under the provisions of the El Paso Municipal Code; and,

WHEREAS, the City desires to adopt a selection process for third party companies to perform said services;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

I. That Title 18 (Building and Construction), Chapter 18.02 (Building and Construction Administrative Code), of the El Paso Municipal Code, shall be and is hereby amended to add Section 18.02.101.4.9 (Selection Procedures for Third Party Plan Review Services) to read as follows:

Title 18 (Building and Construction), Chapter 18.02 (Building and Construction Administrative Code), Section 18.02.101.4.9 (Selection Procedures for Third Party Plan Review Services)

Section 18.02.101.4.9.1 Purpose and Authority.
The purpose of the procedures enumerated in this section is to provide the city with a selection procedure for pre-qualifying companies to perform the services of plan review under the provisions established by this Code. This section shall be applicable to the city's selection of third party plan review companies under the authority of the Building Official. Specifically, the City, by and through the Building Official, shall select a third party plan review company solely on the basis of qualifications. The Building Official through the Pre-Qualification Procedure enumerated herein shall review a company's qualifications. This section shall not apply to the selection of any companies to perform inspection services as those provisions are enumerated in the El Paso Municipal Code. In addition this section does not apply to the hiring of such companies by the City to provide services relating to potential litigation or to provide services ancillary to compliance with local, state or federal laws. Such hiring shall be done in

consultation with the City Attorney and in accordance with the applicable requirements of local, state or federal law.

Section 18.02.101.4.9.2 Pre-Qualification of Companies.
The requirements for pre-qualification of any company shall be determined by the Building Official and shall be approved by City Council resolution, which shall be made available to the public. In order to be considered as a provider of plan review services for a municipal project for the city, a company must be pre-qualified by the closing date of such project, as noted herein. The information presented shall objectively demonstrate that the company has the capacity to perform plan review services as provided under the provisions of this Code. A company may update pre-qualification information at any time, but it is the sole responsibility of the company to maintain current records with the city. Updated pre-qualification materials submitted by a company shall replace existing materials in their entirety. Failure to update records as necessary may result in the determination of non-responsiveness of any submittal for pre-qualification. The Building Official shall notify companies in writing as to whether or not they have met the pre-qualification requirements. Upon the granting of pre-qualification, annual renewal shall be required.

Section 18.02.101.4.9.3 Procedures.

A. Scope of Services.

1. The pre-qualified third party plan review companies may perform work for the private sector. However, any agreements entered into between a company and the private sector are private contracts to which the City of El Paso is not a party. Regardless of the terms of any private contract, any and all fees required by this Code must be paid to the City.
2. The pre-qualified company may also provide services to the City. These services to the City may include plan review related to the City's own municipal projects and/or plan review of private sector projects by the City for which the Building Official determines that third party plan review services would be appropriate.

B. Award of City Contract to Provide Third Party Services.
The City shall abide by all local, state and federal law, statutes, rules and regulations regarding the procurement of the services noted above in 18.02.101.4.9.3 (A)(2).

Section 18.02.101.4.9.4 Appeal Procedures.
Any company, which feels that pre-qualification procedure regulated by Section 18.02.101.4.9.2 has occurred improperly in the selection process, may appeal directly to the City Council of the City of El Paso. Such appeal must be made within ten (10) working days from the date of receiving written notice by the Building Official pursuant to Section 18.02.101.4.9.2. The City Council shall hear any and all appeals related to this section. The City Council shall be the final authority regarding any such appeals.

II. That this ordinance shall be effective upon its final passage by the City Council.

III. Except as expressly herein amended, Title 18 (Building and Construction) of the El Paso Municipal Code, shall remain in full force and effect.

PASSED AND APPROVED THIS 11TH DAY OF MAY 2004.

THE CITY OF EL PASO:

_____
Joe Wardy, Mayor

ATTEST:

_____
Richarda Duffy Momsen, City Clerk

APPROVED AS TO CONTENT:

R. Alan Shubert, P.E., Director
Building Permits & Inspections

APPROVED AS TO CONTENT:

Patricia D. Adauto
Patricia D. Adauto, Deputy CAO
Building and Planning Services

APPROVED AS TO FORM:

Teresa Garcia
Assistant City Attorney

RESOLUTION

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

That the Pre-Qualification Requirements and Procedures, as related to the Selection Procedures for Third Party Plan Review Companies, pursuant to Section 18.02.101.4.9 of the El Paso Municipal Code, is hereby approved by the City Council of the City of El Paso as attached hereto as Attachment "A".

ADOPTED ON THIS 11TH DAY OF MAY 2004.

CITY OF EL PASO

Joe Wardy, Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

APPROVED AS TO CONTENT:

R. Alan Shubert, P.E.
Building Permits and Inspections Director

APPROVED AS TO CONTENT:

Patricia D. Adauto, Deputy CAO
Building and Planning Services

APPROVED AS TO FORM:

Teresa Garcia
Assistant City Attorney

99883

ATTACHMENT "A"

CITY OF EL PASO
THIRD PARTY PLAN REVIEW SERVICES
PRE-QUALIFICATION APPLICATION

99883

ATTACHMENT "A"

OVERVIEW

The City of El Paso requires that any company performing plan review services for the City is pre-qualified for such services. In order to be allowed or selected to provide third party plan review services, a company must be pre-qualified in advance for use by any private company or by the closing date on any project submittal for projects done for the City of El Paso.

To be pre-qualified, companies must complete the pre-qualification application process. A company may update pre-qualification information at any time, but it is the sole responsibility of the company to maintain current records with the City. Failure to update records as necessary may result in the determination of non-responsiveness of any submittal. Upon the granting of pre-qualification, renewal shall not be required.

The City has a maximum of thirty (30) days to review a pre-qualification application once it has been submitted. While companies engaged in seeking such pre-qualification may provide submittals and presentations, pursuant to the selection procedure, no agreement for professional services may be executed with a company that has not been pre-qualified.

The City of El Paso reserves the right to deny approval of any company or individual not deemed qualified by the Building Official. The City of El Paso reserves the right to disqualify companies or individuals previously qualified if:

1. The company or individuals in the company fails to perform services in a manner that assures compliance with all city codes.
2. The project manager or other key staff leave the company or fail to attain or maintain the certifications required.

Companies that wish to appeal disqualification may do so by filing an appeal with the City Council.

ATTACHMENT "A"

REQUIREMENTS

Submissions shall be limited to twenty (20) (eight and one half (8.5) by eleven (11) inch) typed, double-spaced pages plus resumes. Submittals may include photographs or illustrations, and may be provided in color. Each page of the pre-qualification submittal, regardless of its content, shall constitute one (1) page for purposes of determination of compliance with the twenty (20) page restriction. Submissions including content on both sides of one (1) page shall be considered two (2) pages, with regard to the twenty (20) page restriction. Submissions shall be subject to the Texas Public Information Act, Texas Government Code, Section 552 *et. seq.* Any change in information must be made available to the City as soon as reasonably possible. The Building Official, or designee shall review qualifications for compliance with the following requirements.

General Information

Primary contact for the submittal

- Street Address
- Telephone number
- Fax number
- E-mail address, if applicable
- Web address, if applicable

Company Information

- Name and date of formation
- Previous company names, if applicable
- Location of all company offices
- Date of opening of El Paso office, if applicable
- Principals and personnel by discipline
- Technical resources, including CADD capabilities, etc.

Key Personnel

Designate the project manager, in addition to other primary staff members, that would be assigned to work on City of El Paso projects and summarize their qualifications. Provide copies of each license for each licensed member of the company's staff. Provide copies of resumes, including each certification by ICC (or a comparable agency as approved by the Building Official) for each member on the company's staff that will be performing plan review for the private sector or for the City of El Paso. At the discretion of the Building Official, additional qualifications may be required at any time.

ATTACHMENT "A"

The minimum qualifications that plan reviewers must possess are as follows:

Residential:
Plan Reviewers shall have 5 or more years of progressively responsible building trade or trade related experience including two years of residential or commercial construction inspection or plan review experience. They shall have an International Codes Council Residential Combination Inspector Certificate and an International Codes Council Residential Energy Inspector / Plans examiner Certificate.

Commercial:
Building Plans Reviewers shall have 5 or more years of progressively responsible building trade or trade related experience including two years or residential or commercial construction inspection or plan review experience. They shall have an ICC Certified Building Plans Examiner certificate. They shall also have an ICC Commercial Energy Plans Examiner certificate and an ICC Commercial Energy Inspector certificate.

Electrical Plans Reviewers shall have 5 or more years of progressively responsible building trade or trade related experience including two years of residential or commercial electrical inspection or plan review experience. They shall have an ICC Electrical Plans Examiner certificate. They shall also have an ICC Commercial Energy Plans Examiner certificate and an ICC Commercial Energy Inspector certificate.

Mechanical Plans Reviewers shall have 5 or more years or progressively responsible building trade or trade related experience including two years of residential or commercial mechanical inspection or plan review experience. They shall have an ICC Mechanical Plans Examiner certificate. They shall also have an ICC Commercial Energy Plans Examiner certificate and an ICC Commercial Energy Inspector certificate.

Plumbing Plans Reviewers shall have 5 or more years or progressively responsible building trade or trade related experience including two years of residential or commercial plumbing inspection or plan review experience. They shall have an ICC Plumbing Plans Examiner certificate. They shall also have an ICC Commercial Energy Plans Examiner certificate and an ICC Commercial Energy Inspector certificate.

ATTACHMENT "A"

References

Submit a list of references for whom third party plan review has been performed. Include on the list of references the names of municipalities and Building Officials who have knowledge of the performance of the company or individuals in the company.

Authority of the Building Official

The Building Official for the City of El Paso retains the authority to render all code interpretations and to require variances and / or appeals to be filed with the appropriate board of appeals as defined in the El Paso Municipal Code. The Building Official retains the right to oversee and review all plan reviews performed by third party plan review companies. In addition, the Building Official retains the right to revoke any company's authority to perform plan review services based on non-compliance with this resolution or any applicable code provisions. The City of El Paso will not be responsible for any costs incurred by anyone as a result of errors or omissions in third party plan review. In case of a disagreement between third party plan review companies and the Building Official, the decision of the Building Official is final. All enforcement authority of the Code(s) shall remain with the Building Official.

All documents, materials, information, or drafts, whether finished or unfinished that are developed, prepared, completed, or acquired by a third party plan review company in the performance of plan review services shall be made available to the City of El Paso upon request. Any documents submitted to the city for the purpose of securing a permit become the property of the City of El Paso. The city will require two sets of drawings, calculations, and any information as required by the Building Official to secure a building permit. The City of El Paso will retain one copy for its records.

Indemnification

Any third party plan review company authorized by the Building Official to perform plan review services shall execute an indemnification agreement, in a form approved by the City Attorney's Office. Said agreement shall provide that the company shall hold harmless and defend the City against any and all claims related to the services provided by the third party company.

Insurance

Any third party plan review company authorized by the Building Official to perform plan review services shall obtain and maintain insurance coverage with the City of El Paso as an additionally named insured, as follows: commercial general

liability in the amount of a minimum of $1 Million each occurrence and $3 Million aggregate, worker's compensation, vehicular, and professional error and omissions coverage. Such insurance shall be written by an accredited insurance company under the supervision of the Texas Board of Insurance Commissioners and approved by the City Attorney's Office. Proof of said insurance coverage shall be provided to the Building Official prior to approval of the company to perform plan review services.

Conflict of Interest

Any third party plan review company desiring to perform services for the private sector, any entity in the City of El Paso, as well as for the municipality of the City of El Paso must execute a completed Acknowledgement of Conflict of Interest Policy form, approved by the City Attorney's Office, with the City of El Paso. This acknowledgement shall provide that any licensed architect, registered engineer, or other authorized person, entity or corporation who prepared or supervised preparation of the project plans and/or specifications, along with, the owner, builder, subcontractor, their agents, officers and employees shall not be associated in any manner with the third party plan review company. If it is determined that a conflict of interest exists with a third party plan review company, that company shall be disqualified immediately, and will not be allowed to submit a request for re-qualification with the City of El Paso for a minimum of one year.