

JOHN F. COOK
MAYOR



JOYCE WILSON
CITY MANAGER

CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSIE BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
CARL L. ROBINSON, DISTRICT 4
MICHIEL R. NOE, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
CORTNEY CARLISLE NILAND, DISTRICT 8

REGULAR COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
January 24, 2012
8:30 A.M.

The City Council met in regular session at the above place and date. Meeting was called to order at 8:36 a.m. Mayor Pro Tempore Ann Morgan Lilly present and presiding and the following Council Members answered roll call: Susannah M. Byrd, Michiel R. Noe, Eddie Holguin, Jr., Steve Ortega, and Cortney Carlisle Niland. Late arrival: Carl Robinson at 8:40 a.m., and Emma Acosta at 8:41 a.m. Mayor John Cook requested to be excused. The invocation was given by Border Patrol Chaplain Jesse Alvarez, followed by the Pledge of Allegiance to the Flag of the United States of America.

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MAYOR'S PROCLAMATIONS

- 1. CATHOLIC SCHOOLS WEEK**
- 2. SISTERS OF LORETTO WEEK**

CALL TO THE PUBLIC – PUBLIC COMMENT

This time is reserved for members of the public who would like to address the City Council on items that are not on the City Council Agenda.

A sign-up form is available on line at https://www.elpasotexas.gov/muni_clerk/contact_public.asp for those who wish to sign up in advance of the meeting date and a sign-up form is available outside the City Council Chambers at the City Clerk table for those who wish to sign up on the day of the meeting.

Requests to speak must be received by 8:30 a.m. on the date of the meeting.

30 Minutes total is allotted for speakers.

Three to five minutes may be allowed for each speaker.

The following members of the public commented:

1. Mr. John Conwell
2. Ms. Dorothy Truax
3. Mr. Jerold Thiedt
4. Mr. Raul Castaneda
5. Mr. Jorge Artalejo
6. Mr. Tom Brown

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CONSENT AGENDA

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd, and unanimously carried to **APPROVE, AS REVISED**, all matters listed under the Consent Agenda unless otherwise noted. (Items

approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {*}.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega, and Niland
NAYS: None

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1. APPROVAL OF MINUTES

*Motion made, seconded, and unanimously carried to **APPROVE** the Minutes for the Regular City Council Meeting of January 17, 2012.

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2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS

*Motion made, seconded, and unanimously carried to **EXCUSE** Mayor John F. Cook from the Regular Council Meeting of January 24, 2012.

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3A.

***RESOLUTION**

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

That the City Manager be authorized to sign a Lessor’s Approval of Assignment of the General Aviation Commercial Ground Lease by and among the City of El Paso (“Lessor”), Juliusson Family Limited Partnership (“Assignor”), and TJW Aviation LLC (“Assignee”) for the following described property:

Portions of Lots 2 and 3, Block 4, El Paso International Airport Tracts, Unit 10, El Paso, El Paso County, Texas and municipally known and numbered as 6805 Boeing Dr., El Paso, Texas.

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3B.

***RESOLUTION**

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

That the City Manager be authorized to sign a sub-recipient grant contract with El Paso Independent School District in connection with the City's Weed and Seed DOJ Grant Program (FY12), awarding an amount not to exceed \$6,500 to support a tutoring program for at-risk youth in elementary and middle schools within the Chamizal Neighborhood Weed and Seed boundary, subject to the terms and conditions of the grant contract.

Representative Acosta commented.

The following City Staff members commented.

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. Mark Weber, Neighborhood Services

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3C.

***RESOLUTION**

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

That the City Manager be authorized to sign Consent to Assignment of the contract by and between the CITY OF EL PASO, Envirosolve, Inc. ("Assignor") and Stericycle Specialty Waste Solutions ("Assignee"), with respect to the City of El Paso Contract No. 2007-122 (Waste Removal and Disposal Services).

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3D.

***R E S O L U T I O N**

WHEREAS, the City awarded Contract No. 2009-224 (Tire and Roadside Tire Service), Part B (Retread), to RB Wicker Tire & Rubber Company, on September 29, 2009, for the General Services Department; and

WHEREAS, the amount of the Contract awarded has been exceeded and the City has notified vendor that the City would rebid the contract and Council would terminate said Contract for convenience pursuant to the provisions of the Contract; and

WHEREAS, pursuant to Section C, Paragraph 8A of the Contract (Termination for Convenience), the City is authorized to terminate the Contract for convenience; and

WHEREAS, the City desires to terminate the Contract for convenience.

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

That the Purchasing Manager is authorized to notify RB Wicker Tire & Rubber Company that the City is terminating Contract No. 2009-224, Part B, pursuant to the provisions and requirements of Section C, Paragraph 8A of the Contract Clauses, and that the termination shall be effective as of January 24, 2012.

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3E.

***R E S O L U T I O N**

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

That the City Manager or her designee is hereby authorized to submit the attached TIRZ No. 5 Annual Report to the appropriate entities as required by Section 311.016 of the Texas Tax Code.

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3F.

***R E S O L U T I O N**

WHEREAS, the Planning and Economic Development Department of the City has frequent requirements for economic-impact assessments, briefing and training to City staff, and other technology-based economic development assessment services; and

WHEREAS, the City has determined that the University of Texas at El Paso ("UTEP"), through its Institute for Policy and Economic Development ("IPED"), is qualified to provide such assessments, training and services; and

WHEREAS, UTEP is willing to provide such assessments, training and services to the City;

WHEREAS, the Texas Interlocal Cooperation Act of the Texas Government Code, §§791.001, *et seq.*, allows local governments and political subdivisions of the state to contract among each other for governmental functions and services; and

WHEREAS, it is the intent of the City and UTEP that they enter into an Interlocal Agreement to provide for such assessments, training and services.

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

THAT the Mayor be authorized to sign an Interlocal Agreement with the University of Texas at El Paso (“UTEP”) under which the Institute for Policy and Economic Development (“IPED”) of UTEP shall provide economic-impact assessments, briefing and training to City staff, and other technology-based economic development assessments services, all as requested by the Planning and Economic Development Department of the City. The Agreement shall be for a term of one (1) year with a maximum cost to the City of \$30,000 for the term.

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4 APPLICATION FOR TAX REFUNDS

*Motion made, seconded, and unanimously carried that the following tax refunds be **APPROVED**, subject to auditor approval:

- A. Emeritus Corporation in the amount of \$4,352.55 overpayment of 2011 taxes. (PID #2003-999-2289-0034).
- B. Capital Bank, SSB in the amount of \$7,964.77 overpayment of 2011 taxes. (PID #C301-999-0400-0300).
- C. Thomas Bessler in the amount of \$5,703.16 overpayment of 2011 taxes. (PID #C540-999-0030-0400).
- D. Fidelity National Title in the amount of \$3,503.72 overpayment of 2011 taxes. (PID #E933-999-0060-1700).
- E. Citimortgage in the amount of \$3,225.13 overpayment of 2012 taxes. (PID #H788-002-0150-0140).
- F. Jose & Socorro Nunez in the amount of \$3,231.53 overpayment of 2011 taxes. (PID #I256-999-0290-2300).
- G. Aurora Bank c/oTasha Kidwell in the amount of \$6,049.32 overpayment of 2011 taxes. (PID #K383-999-0060-1100).
- H. Kathleen Salanie – Smith in the amount of \$15,175.69 overpayment of 2010 taxes. (PID # P327-999-0020-0400).
- I. Rio Bravo in the amount of \$8,441.56 overpayment of 2011 taxes. (PID #P327-999-0040-1900).
- J. Platinum Title Partners, LP in the amount of \$7,318.74 overpayment of 2011 taxes. (PID #S075-000-0090-4852).
- K. Chase in the amount of \$6,545.48 overpayment of 2011 taxes. (PID #S365-999-0050-1300).

- L. Mohammad Tifouni in the amount of \$4,418.59 overpayment of 2011 taxes. (PID #S380-999-0060-1300).
- M. Hector Lopez & Mireya Lopez in the amount of \$4,127.28 overpayment of 2011 taxes. (PID #S533-000-0010-16A0).
- N. Gregorio & Adriana Loya in the amount of \$10,567.85 overpayment of 2011 taxes. (PID #S690-999-0010-8800).
- O. First American Title in the amount of 4,604.92 overpayment of 2010 taxes. (PID #V655-999-0200-0700).
- P. Socorro & Jose Nuñez in the amount of \$3,935.78 overpayment of 2011 taxes. (PID #V893-999-0450-0700).
- Q. Network National Title in the amount of \$2,826.76 overpayment of 2011 Taxes. (PID #S162-999-0040-4900).
- R. German A. Ayala in the amount of \$2,769.52 overpayment of 2011 taxes. (PID #S541-999-0100-0700).
- S. Network National Title in the amount of \$4,289.25 overpayment of 2011 taxes. (PID #S814-999-0090-0400).
- T. Michael Anthony Porter in the amount of \$3,134.10 overpayment of 2011 taxes. (PID #T287-999-1170-4900).
- U. Rogelio & Irma Vasquez in the amount of \$2,712.68 overpayment of 2011 taxes. (PID #V89-999-3590-2500).
- V. Lloyd L. Ellis in the amount of \$10,000.00 overpayment of 2011 taxes. (PID #P654-999-0460-2301).

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5A. REQUEST TO ISSUE PURCHASE ORDERS

*Motion made, seconded, and unanimously carried to **AUTHORIZE** the Purchasing Manager for Financial Services, Purchasing Division to exercise the City’s option to extend current Contract No. 2009-062 (Barricade Rental Service) to Contractor’s Barricade Service, Inc. for two additional years pursuant to the provisions of an award approved by the City Council on February 3, 2009. The extended contract period will be from February 3, 2012 to February 2, 2014.

Department:	Department of Transportation
Award to:	Contractor’s Barricade Service, Inc. El Paso, TX
Option:	One [of One]
Annual Estimated Award:	\$ 70,000
Total Estimated Award:	\$140,000 (2 years)
Account No.:	32010200 – 502411 – 01101
Funding Source:	Government Operations – Leases NOC

This is a Low Bid, unit price contract.

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5B. REQUEST TO ISSUE PURCHASE ORDERS

*Motion made, seconded, and unanimously carried to **AUTHORIZE** the Purchasing Manager for Financial Services, Purchasing Division to issue a Purchase Order to Sharp Electronics Corp. NJPA/Sharp Electronics Company under Texas Association of School Boards, Inc. (TASB) BuyBoard Contract No. 379-11 (Copier & Supplies), for the lease and maintenance of 10 color copiers with the option to lease additional copiers as needed.

The participation by the City of El Paso in Texas Association of School Boards, Inc. (TASB) BuyBoard Cooperative Purchasing Program was approved by Mayor and City Council on August 21, 2007.

Department: Financial Services
Award to: Sharp Electronics Corp. NJPA/Sharp Electronics Company
Mahwah, NJ
Initial Estimated Award: \$112,000 (10 copiers)
Optional Purchase: \$ 82,000 (additional copiers)
Total Estimated Award: \$194,000 (through April 2014)
Account: Various
Funding Source: Various
Reference No.: 2012-142

This is a Cooperative, unit price contract.

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5C. REQUEST TO ISSUE PURCHASE ORDERS

*Motion made, seconded, and unanimously carried to **REJECT** the sole bid received for Solicitation No. 2012-063 (Off-Site Vehicle Propane Fueling Services) as recommended by Financial Services – Purchasing Division and General Services Department. Sole bid submitted was deemed non-responsive by our Legal department, due to bidder not following unit pricing instructions as provided within the bid solicitation.

A new solicitation will be issued.

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5D. REQUEST TO ISSUE PURCHASE ORDERS

*Motion made, seconded, and unanimously carried to **AUTHORIZE** the Purchasing Manager for Financial Services, Purchasing Division to issue a Purchase Order to Southwestern Mill Distributors, Inc. and Spectrum Paper Companies, Inc. under Region 19 Contract No.11-6698 for Custodial Paper, Food Service Requirements and Related for various City facilities. The City has made the determination that purchasing from this cooperative offers the most cost-effective pricing.

The participation by the City of El Paso in the Region 19 Cooperative Purchasing Program was approved by Mayor and City Council on March 4, 2008.

Departments: General Services
Aviation (El Paso International Airport)
Award to: Vendor 1 Southwestern Mill Distributors, Inc.
El Paso, TX
Estimated Award: \$160,000
Award to: Vendor 2 Spectrum Paper Companies
El Paso, TX

Estimated Award: \$ 31,000
Total Estimated Award: \$191,000
Account Nos.: 31010325– 503111 – 01101
62620003 – 503121 – 40101
Funding Source: Cleaning Supplies – Government Operations
Inventory Purchases-Material & Supplies – Airport
Cost Centers
Reference No.: 2012-049

This is a Cooperative, unit price contract.

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5E. REQUEST TO ISSUE PURCHASE ORDERS

*Motion made, seconded, and unanimously carried to **AUTHORIZE** the Purchasing Manager for Financial Services, Purchasing Division to exercise the City’s option to extend current Contract 2009-063 (Armored Car Services) with Trans America Protection Corporation for one additional year pursuant to the provisions of an award approved by the City Council on February 24, 2009. The extended contract period will be from March 15, 2012 to March 14, 2013.

Department: International Bridges
Award to: Trans America Protection Corporation
El Paso, TX
Option: One [of One]
Annual Estimated Amount: \$72,000
Total Estimated Amount: \$72,000 (1 year)
Account No.: 64010283 – 502212 – 40272
Funding Source: International Bridges Revenue – Security Contracts

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5F. REQUEST TO ISSUE PURCHASE ORDERS

*Motion made, seconded, and unanimously carried to **AUTHORIZE** the Purchasing Manager for Financial Services, Purchasing Division to issue a Purchase Order to Advanced Security Contractors, Inc., a contractor under the Region 19 Cooperative Purchasing Program Contract No. 09-6356 (Electronic Surveillance & Locking Systems), for the purchase and installation of the Hirsch Access Control System in order to upgrade the present access control system to the newest standards used by the City of El Paso. The City has made the determination that purchasing from this cooperative offers the most cost-effective pricing.

The participation by the City of El Paso in the Region 19 Cooperative Purchasing Program was approved by Mayor and City Council on March 4, 2008.

Department: Police Department
El Paso, TX
Total Estimated Award: \$73,737.65
Account No.: 22150024 – 502225 – 07192 – G221017
Funding Source: Homeland Security Grant SHSP-LEAPS FY 2009
Reference No.: 2012-139

This is a Cooperative, service-materials contract.

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5G. REQUEST TO ISSUE PURCHASE ORDERS

*Motion made, seconded, and unanimously carried to **AUTHORIZE** the Purchasing Manager for Financial Services, Purchasing Division to issue a Purchase Order to Brazos Technology Corporation, a contractor under Cooperative Purchasing Program GSA Contract, Schedule 70, GS-35F-0096X for the purchase of 22 In-A-Box Motorola electronic ticketing handheld devices with accessories. The City has made the determination that purchasing from this cooperative offers the most cost-effective pricing.

Department: Police Department
Award to: Brazos Technology Corporation
College Station, TX
Total Estimated Amount: \$86,409
Account No.: 21150010 – 508010 – 05441 – 2011-DJ-BX-3043
Funding Source: BJA 2011 Byrne Justice Assistance Grant (JAG)
Reference No.: 2012-140

This is a Cooperative, unit price contract.

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6. BIDS

*Motion made, seconded, and unanimously carried to **AWARD** Solicitation No. 2012-062 for the Jorge Montalvo Park Irrigation to Martinez Bros. Contractors, LLC, for a total estimated amount of \$282,467.50.

Department: Engineering and Construction Management and Parks and Recreation Department
Award to: Martinez Bros. Contractors, LLC
Base Bid: \$219,723.50
Minus item 11 \$< 8,556>
Alternate 1 \$ 71,300
Sum Total Base Bid minus \$282,467.50
Item 11 plus Alternate 1
Funding Source: Storm Water Utility, Parkland Dedication and 2012-2013 Certificates of Obligation

It is requested that the City Manager of the City of El Paso be authorized to sign any contracts or other documents required to effectuate this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

This is a low bid, unit-price contract. The Engineering and Construction Management Department and Parks and Recreation Department recommend award as indicated to the lowest responsible bidder.

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7A – 7B. INTRODUCTIONS

Motion made by Representative Niland, seconded by Representative Ortega, and unanimously carried that the following Ordinances, having been introduced pursuant to Section 3.9 of the El Paso City Charter, be **ADVERTISED** for public hearing:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega, and Niland
NAYS: None

7A. An Ordinance granting a Special Privilege License to Joe Rosales permitting the encroachment of an 8 foot by 11 inch existing staircase within portions of City right-of-way on South Oregon Street adjacent to the property located at 510 South Oregon Street. NESV11-00051

PUBLIC HEARING WILL BE HELD ON JANUARY 31, 2012, FOR ITEM 7A

7B. An Ordinance amending Title 18 (Building and Construction), Chapter 18.08 (Building Code), Section 18.08.070 (Fences), of the El Paso City Code, to amend the requirements and standards for electrified fences, the penalty being as provided in Section 18.02.107 (Violations and Penalties) of the El Paso City Code.

Representative Byrd commented.

Ms. Joyce Wilson, City Manager, commented.

PUBLIC HEARING WILL BE HELD ON FEBRUARY 7, 2012, FOR ITEM 7B

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8A. ENGINEERING AND CONSTRUCTION MANAGEMENT

Motion made by Representative Byrd, seconded by Representative Ortega, and unanimously carried to **AWARD** Solicitation No. 2012-090 for the Mountain View Skate Park Improvements to Grindline Skateparks, Inc., for a total estimated amount of \$718,826.45

Department:	Engineering and Construction Management
Award to:	Grindline Skateparks, Inc.
Base Bid:	\$699,826.45
Option I:	\$ 19,000
Total Estimated Completion:	\$718,826.45
Funding Source:	Community Development Block Grant (CDBG) 36 th Year

It is requested that the City Manager of the City of El Paso be authorized to sign any contracts or other documents required to effectuate this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

This is a low bid, unit-price contract. The Engineering and Construction Management Department recommends award as indicated to the lowest responsible bidder.

Mr. Sam Rodriguez, Engineering Division Manager presented a PowerPoint presentation (copy on file in City Clerk's office)

Representatives Byrd, Noe and Robinson commented.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega and Niland
NAYS: None

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8B. ENGINEERING AND CONSTRUCTION MANAGEMENT

Motion made by Representative Byrd, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **AWARD** Solicitation No. 2012-017 for the Thermoplastic Striping 2012 to RoadSafe Traffic Systems, Inc. for a total estimated amount of \$667,341.

Department: Engineering and Construction Management and
Department of Transportation
Award to: RoadSafe Traffic Systems, Inc.
Base Bid: \$667,341
Total Estimated Completion: \$667,341
Option: To purchase 100% of the original contract quantities at the same unit price, for an additional 365 days, if option is exercised within 30 days prior to the expiration of the contract.
Funding Source: General Fund FY2012

It is requested that the City Manager of the City of El Paso be authorized to sign any contracts or other documents required to effectuate this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer or Department of Transportation Director may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

This is a low bid, unit-price contract. The Engineering and Construction Management Department and The Department of Transportation recommend award as indicated to the lowest responsible bidder.

Mr. Richard Bristol, Administrative Services Manager, Engineering and Construction Management, commented.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega and Niland
NAYS: None

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9. GENERAL SERVICES

Motion made by Representative Ortega, seconded by Representative Acosta, and unanimously carried to **AWARD** Solicitation No. 2012-019 (Landfill Compactor) to Wagner Equipment Company for a total of \$871,739.

Department: General Services
Award to: Wagner Equipment Company
El Paso, TX
Items: Item 1, O-3

Option: Option to Purchase Additional Quantity
 within 90 days of Award
 Total Award: \$871,739
 Account No.: 34010296 – 40499 – 508029 – PSWM0017-ESD,
 Heavy Off Road Equipment
 Funding Source: Environmental Services Department,
 Heavy Off Road Equipment

This is a Best Value, unit price contract.

The Financial Services - Purchasing Division and General Services recommend award as indicated to Wagner Equipment Company, the vendor offering the best value bid.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega and Niland
 NAYS: None

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10A. AND 10B. TAKEN TOGETHER

10A. PLANNING AND ECONOMIC DEVELOPMENT

Motion made by Representative Byrd, seconded by Representative Robinson, and unanimously carried to **POSTPONE** ten weeks the public hearing on an Ordinance to preserve in its natural state and in perpetuity acreage legally described as Parcel 1, Nellie D. Mundy Survey 246, City of El Paso, El Paso County, Texas; Parcel 2, A portion of S.J. Larkin Survey, Abstract 10070, Tract 1, City of El Paso, El Paso County, Texas and Parcel 3, A portion of S.J. Larkin Survey, Abstract 10070, Tract 1-A, City of El Paso, El Paso County, Texas.

10B. PLANNING AND ECONOMIC DEVELOPMENT

Motion made Representative Byrd, seconded by Representative Robinson, and unanimously carried to **POSTPONE** ten weeks the public hearing on an Ordinance to preserve in its natural state and in perpetuity acreage legally described as Parcel 1, Nellie D. Mundy Survey 246, City of El Paso, El Paso County Texas; Parcel 2, a portion of S. J. Larkin Survey, Abstract 10070, Tract 1, City of El Paso, El Paso County Texas and Parcel 3, a portion of S. J. Larkin Survey, Abstract 10070, Tract 1-A, City of El Paso, El Paso County Texas.

Mr. Mathew McElroy, Deputy Director, Planning and Economic Development, presented a PowerPoint presentation (copy on file in City Clerk's office).

Mr. Jason King, and Richard Dover, Dover Kohl, presented a PowerPoint presentation (copy on file in City Clerk's office).

Representatives Robinson, Ortega, and Byrd, commented.

Ms. Joyce Wilson, City Manager, commented.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega and Niland
 NAYS: None

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11A.

RESOLUTION

WHEREAS, by Resolution of March 13, 2007, the City Council of the City of El Paso created the Camino Real Regional Mobility Authority (CRRMA) and named its initial Board;

WHEREAS, in accordance with Section 370.251 of the Texas Transportation Code and the City of El Paso's Petition and Request for Authorization to Form the Camino Real Regional Mobility Authority, as approved by the Texas Transportation Commission, the terms for three (3) CRRMA Board positions expire on February 1 of each year;

WHEREAS, in an effort to insure the continuity of the CRRMA through the avoidance of any vacancies in City-appointed positions of the CRRMA Board, the City Council desires to make reappointments to Positions 1, 3 and 5, which shall become effective on February 1, 2012;

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

That the City of El Paso hereby reappoints the following board members to the Camino Real Regional Mobility Authority Board for the positions identified below, each of which shall take effect on February 1, 2012:

1. David Marcus for Position 1, whose term will expire on February 1, 2014;
2. Rosario Holguin for Position 3, whose term will expire on February 1, 2014; and
3. Ralph Adame for Position 5, whose term will expire on February 1, 2014.

Representative Ortega and Holguin commented.

Mr. Raymond Telles, Executive Director, Camino Real Regional Mobility Authority, commented.

Motion made by Representative Acosta, seconded by Representative Byrd, and carried to **APPROVE** the Resolution.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega and Niland
 NAYS: Representative Holguin

11B. MAYOR AND COUNCIL

*Motion made, seconded, and unanimously carried to **DELETE** the item on amending City Ordinance No. 752 which established the Public Service Board in May of 1952 to create an additional trustee appointment to the PSB board to include the City Manager of El Paso, Texas.

12. CITY ATTORNEY

Motion made by Representative Acosta, seconded by Representative Robinson, and unanimously carried to **DIRECT** the City Attorney and City Manager to prepare all documents regarding costs for election conducted by the City of El Paso and update election information January 31 to call the special election.

Representatives Holguin, Byrd, Noe, Acosta, Robinson, Ortega, and Niland commented.

The following City Staff members commented:

1. Ms. Joyce Wilson, City Manager
2. Ms. Sylvia Firth, City Attorney, gave legal advice.
3. Ms. Elaine Hengen, Senior Assistant City Attorney, gave legal advice.
4. Ms. Richarda Duffy Momsen, City Clerk

Mr. Javier Chacon, El Paso County Election Administrator, commented.

Mr. Tom Brown, Citizen, commented.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega and Niland
 NAYS: None

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 Mayor Cook arrived at 10:31 a.m.

13A. and 13B. TAKEN TOGETHER

13A

RESOLUTION

A Resolution of the City of El Paso, Texas, authorizing the execution and delivery of CERTAIN AGREEMENTS RELATING TO TRANSPORTATION PROJECTS WITHIN TRANSPORTATION REINVESTMENT ZONE NUMBER TWO; Resolving other Matters Related Thereto; and providing an effective date.

WHEREAS, the City of El Paso, Texas (the “City”), a body corporate and politic existing under the laws of the State of Texas, has previously established a Transportation Reinvestment Zone Number Two, City of El Paso, Texas (the “Zone”) to promote transportation projects described by Section 222.104 of the Texas Transportation Code (“Section 222.104”) that cultivate development and redevelopment of the Zone; and

WHEREAS, the City and the CRRMA have entered into one or more agreements (the “Pass-through Agreement”) with the Texas Department of Transportation (the “Department”) under Section 222.104 for the design, development, financing, construction, maintenance, or operation of certain projects located within the Zone; and

WHEREAS, on June 29, 2010, the Camino Real Regional Mobility Authority (the “CRRMA”) and the City entered into an “Agreement With Respect to Transportation Reinvestment Zone Number Two” for the development and construction of one or more transportation projects within the Zone and the transfer and pledge of certain revenues for the payment of such projects (the “Original Agreement”); and

WHEREAS, as a result of a change in law and a change in anticipated funding sources for the work covered by the Pass-Through Agreement, the Department, the CRRMA and the City have mutually determined that (i) the termination of the Pass-Through Agreement is in the best interest of each of the contracting parties thereto, (ii) such termination necessitates certain technical amendments to the Original Agreement, and (iii) such termination necessitates that the City become a party to a project development agreement between the Department and the CRRMA for certain limited purposes; now, therefore,

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

Approval of Documents. The form, terms and provisions of (i) the “Termination Of Pass-Through Agreement For Payment Of Pass-Through Tolls Agreement” in substantially the form attached hereto as **Exhibit A** (the “PTTA Termination”); (ii) the “First Amendment To Agreement With Respect To Transportation Reinvestment

Zone Number Two” in substantially the form attached hereto as **Exhibit B** (the “First Amendment”); and (iii) “Amendment No. 4 To Project Development Agreement” in substantially the form attached hereto as **Exhibit C** (the “Amendment No. 4”); are hereby approved with such insertions, omissions and changes as shall be approved by the City Manager of the City, the execution of such documents being conclusive evidence of such approval. The City Manager of the City is hereby authorized and directed to execute such agreements and any related exhibits attached thereto and to deliver such agreements (including any necessary exhibits) to the respective parties thereto, and the City Clerk of the City is hereby authorized to affix the seal of the City to such documents as required therein. Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Original Agreement, as amended by the First Amendment.

Other Actions Authorized. To extent the Department has previously approved a pass-through toll application for the direct connector project at the intersection of Loop 375 (Joe Battle Blvd.) and FM 659 (Zaragoza Rd.) (the “Zaragoza Project”), the City acknowledges that such pass-through agreement is no longer needed for such project because of the change of law and the CRRMA’s other financing sources and the City hereby waives any rights it may have under such Departmental approval and affirms it will not look to the Department for pass-through toll financing on the Zaragoza Project under such prior Departmental approval. In addition, the City affirms its contractual obligation under the terms of the Original Agreement, as amended by the First Amendment, to transfer the Tax Increment and the TRZ Contract Payments in support of CRRMA Obligations issued for Projects as further described in such agreement and so as to facilitate the development of the Zaragoza Project by the Department pursuant to Section 222.108 of the Texas Transportation Code. The City Manager, the Deputy City Manager for Finance and Management Support Services, and other officers and employees of the City are hereby authorized to take all action necessary or reasonably required by the parties to the PTTA Termination, the First Amendment or Amendment No. 4 to carry out, give effect to and consummate the transactions contemplated thereby and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing certificates and other documents required to be delivered in connection with the PTTA Termination, the First Amendment or Amendment No. 4.

Severability. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and the City Council of the City hereby declares that this Resolution would have been enacted without such invalid provision.

Incorporation of Findings and Determinations. The findings and determinations of the City Council of the City contained in the preamble hereof are hereby incorporated by reference and made a part of this Resolution for all purposes as if the same were restated in full in this Section.

Public Meeting. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551 of the Texas Government Code, as amended.

Effective Date. This Resolution shall be effective immediately upon its approval and adoption.

Motion made by Representative Acosta, seconded by Representative Niland, and carried to **APPROVE** the Resolution

13B.

RESOLUTION

A Resolution of the City of El Paso, Texas, authorizing the execution and delivery of AN AMENDMENT TO THE AGREEMENT WITH RESPECT TO TRANSPORTATION REINVESTMENT ZONE NUMBER THREE; Resolving other Matters Related Thereto; and providing an effective date.

WHEREAS, the City of El Paso, Texas (the "City"), a body corporate and politic existing under the laws of the State of Texas, has previously established a Transportation Reinvestment Zone Number Three, City of El Paso, Texas (the "Zone") to promote transportation projects described by Section 222.104 of the Texas Transportation Code ("Section 222.104") that cultivate development and redevelopment of the Zone; and

WHEREAS, on June 29, 2010, the Camino Real Regional Mobility Authority (the "CRRMA") and the City entered into an "Agreement With Respect to Transportation Reinvestment Zone Number Three" for the development and construction of one or more transportation projects within the Zone and the transfer and pledge of certain revenues for the payment of such projects (the "Original Agreement"); and

WHEREAS, the City and the CRRMA originally intended to enter into one or more agreements (the "Pass-through Agreement") with the Texas Department of Transportation (the "Department") under Section 222.104 for the design, development, financing, construction, maintenance, or operation of certain projects located within the Zone; and

WHEREAS, as a result of a change in law and anticipated funding sources for projects within the Zone, the Department, the CRRMA and the City have mutually determined that a Pass-Through Agreement is no longer required for the Zone projects which necessitates certain technical amendments to the Original Agreement; now, therefore,

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

Approval of Documents. The form, terms and provisions of the "First Amendment To Agreement With Respect To Transportation Reinvestment Zone Number Three" in substantially the form attached hereto as **Exhibit A** (the "First Amendment") is hereby approved with such insertions, omissions and changes as shall be approved by the City Manager of the City, the execution of such document being conclusive evidence of such approval. The City Manager of the City is hereby authorized and directed to execute such agreement and any related exhibits attached thereto and to deliver such agreement (including any necessary exhibits) to the respective parties thereto, and the City Clerk of the City is hereby authorized to affix the seal of the City to such document as required therein. Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Original Agreement, as amended by the First Amendment.

Other Actions Authorized. To extent the Department has previously approved a pass-through toll application for the "Project" as defined in the First Amendment, the City acknowledges that such pass-through agreement is no longer needed for such project because of the change of law and the CRRMA's other financing sources and the City hereby waives any rights it may have under such Departmental approval and affirms it will not look to the Department for pass-through toll financing on the Project under such prior Departmental approval. In addition, the City affirms its contractual obligation under the terms of the Original Agreement, as amended by the First Amendment, to transfer the Tax Increment and the TRZ Contract Payments in support of CRRMA Obligations issued for the Project as further described in such agreement, including the development of the Project by the Department pursuant to Section 222.108 of the Texas Transportation Code. The City Manager, the Deputy City Manager for Finance and Management Support Services, and other officers and employees of the City are hereby authorized to take all action necessary or reasonably required by the parties to the First Amendment to carry out, give effect to and consummate the transactions contemplated thereby and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing certificates and other documents required to be delivered in connection with the First Amendment.

Severability. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and the City Council of the City hereby declares that this Resolution would have been enacted without such invalid provision.

Incorporation of Findings and Determinations. The findings and determinations of the City Council of the City contained in the preamble hereof are hereby incorporated by reference and made a part of this Resolution for all purposes as if the same were restated in full in this Section.

Public Meeting. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551 of the Texas Government Code, as amended.

Effective Date. This Resolution shall be effective immediately upon its approval and adoption.

Representatives Byrd, Acosta, Robinson, and Ortega commented.

Mr. Paul Braden, Outside Bond Counsel, Fulbright and Jaworski, commented.

Mr. Raymond Telles, Executive Director, Camino Real Regional Mobility Authority, commented.

The following City Staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. William Studer, Deputy City Manager

Motion made by Representative Acosta, seconded by Representative Niland, and unanimously carried to **APPROVE** the Resolution

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: Representative Holguin

.....
Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and carried that the City Council retire into **EXECUTIVE SESSION** at 10:43 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.076 to discuss any of the following:

NOT PRESENT FOR THE VOTE:

- Section 551.071 CONSULTATION WITH ATTORNEY
- Section 551.072 DELIBERATION REGARDING REAL PROPERTY
- Section 551.073 DELIBERATION REGARDING PROSPECTIVE GIFTS
- Section 551.074 PERSONNEL MATTERS
- Section 551.076 DELIBERATION REGARDING SECURITY DEVICES
- Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

Discussion and action on the Executive Session items on the Regular City Council Agenda:

Motion made by Representative Ortega, seconded by Representative Noe, and unanimously carried to adjourn the Executive Session at 11:31 a.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

.....
EX1. Litigation strategies in pending or contemplated utility rate cases. (551.071)

NO ACTION was taken on this item.

.....
EX2. Application of El Paso Electric Company to Amend its Certificate of Convenience and Necessity for Five Solar Power Generation Projects, Public Utility Commission of Texas Docket 39973. (552.071)

NO ACTION was taken on this item.

.....
EX3. Harold Collins, et. al. vs. Miami Tank Manufacturing, Inc., et. al.; Cause No. 2009-2736 (551.071)

1st MOTION:

Motion made Mayor Pro Tempore Lilly, seconded by Representative Byrd, and carried that the City Attorney's Office be authorized to appeal if the City Attorney deems necessary in the lawsuit styled *Harold Collins, et. al. vs. The City of El Paso, et. al.*; Cause No. 2009-2736.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland
NAYS: None
ABSTAIN: Representative Holguin

2ND AND FINAL MOTION

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd, and carried that the City Attorney's Office be authorized to reject Plaintiffs' settlement demand and authorize the City Attorney's Office to continue negotiates and, in the event of settlement, to sign all settlement documents in the lawsuit styled *Harold Collins, et. al. vs. The City of El Paso, et. al.*; Cause No. 2009-2736.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland
NAYS: None
ABSTAIN: Representative Holguin

.....
Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **ADJOURN** this meeting at 11:33 a.m.

.....
APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk