



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

DEPARTMENT: ENGINEERING & CONSTRUCTION
MANAGEMENT DEPARTMENT

AGENDA DATE: INTRODUCTION: OCT 4, 2011
PUBLIC HEARING: OCT 18, 2011

CONTACT PERSON NAME AND PHONE NUMBER: R. ALAN
SHUBERT, (915) 541-4428

DISTRICT(S) AFFECTED: ALL

SUBJECT:

An ordinance amending Title 18 (Building and Construction), Chapter 18.02 (Building and Construction Administrative Code) Section 18.02.108.5.1 (Bond Required), of the El Paso City Code, decreasing the required bond amount for contractors from \$50,000.00 to \$25,000.00 and allowing for additional exceptions to the \$25,000.00 bond requirement, the penalty being as provided in Section 18.02.107 (Violations and Penalties) of the El Paso City Code.

BACKGROUND / DISCUSSION:

Exceptions are being provided for work that does not rise to the level of risk for which a \$25,000 is required.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

LRC – Sept 15, 2011 approved to take to council for action.

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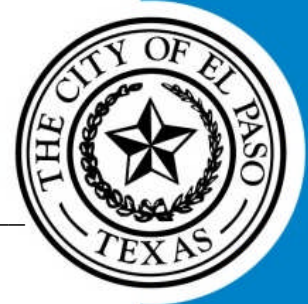
City Manager

Joyce A. Wilson



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S E R V I C E S O L U T I O N S S U C C E S S



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

DEPARTMENT HEAD: _____

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

Information copy to appropriate Deputy City Manager

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Engineering & Construction Management

Two Civic Center Plaza – 5th Floor · El Paso, Texas 79901
Phone (915) 541-4622 · Fax (915) 541-4799

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.02 (BUILDING AND CONSTRUCTION ADMINISTRATIVE CODE) SECTION 18.02.108.5.1 (BOND REQUIRED), OF THE EL PASO CITY CODE, DECREASING THE REQUIRED BOND AMOUNT FOR CONTRACTORS FROM \$50,000.00 TO \$25,000.00 AND ALLOWING FOR ADDITIONAL EXCEPTIONS TO THE \$25,000.00 BOND REQUIREMENT, THE PENALTY BEING AS PROVIDED IN SECTION 18.02.107 (VIOLATIONS AND PENALTIES) OF THE EL PASO CITY CODE.

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

Section 1. That 18.02 (Building and Construction Administrative Code), Section 18.02.108.5.1 (Bond required), of the El Paso City Code be deleted in its entirety and replaced with the following:

18.02.108.5.1 Bond required. It shall be the duty of every contractor, owner, firm, partnership, corporation, builder who shall make contracts to construct, install, maintain or repair buildings, structures or systems for which a permit is required, and every contractor, owner, or builder making such contracts and subletting the same, or any part thereof, to have on file with the City, a bond in the sum of twenty five thousand dollars (\$25,000.00) executed in a form prescribed and approved by the city attorney. This section shall apply to plumbing, mechanical, electrical, irrigation and fire contractors acting as general contractors, whether or not state law requires a bond for their particular discipline.

Exceptions:

1. The following type of work shall require a bond in the sum of \$10,000.00 executed in the form prescribed and approved by the city attorney:
 - a. Irrigation installations
 - b. Site lighting and landscape installations
 - c. Temporary structure placement
 - d. Mobile placement permits
 - e. Temporary sign placements
 - f. Tents in excess of 200 square feet
 - g. Fences
 - h. Patch & paint permits
 - i. Pavement cuts or excavation in the public right of way.

However, the building official shall have the authority to require a bond in the amount of \$25,000.00 if the subject work exceeds \$10,000.00 in valuation.

2. The following type of work shall not require a bond:

- a. Residential property owners doing all the construction work or who will be hiring workers without employing a licensed contractor to perform the construction work on the residence they claim as their homestead.
- b. Federal, state, county and city agencies and departments performing building work on their facilities and using only their employees to perform the construction work.
- c. Commercial building and facilities owners, agents or lessees requesting permits for change of occupancy permits or minor nonstructural remodeling work which does not affect means of egress, such as non-load bearing partitions within tenant spaces and whose cost does not exceed five thousand dollars.

Section 2. Except as herein provided, Title 18 (Building and Construction) shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2011.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:

R. Alan Shubert, P.E.
City Engineer

**ENGINEERING AND CONSTRUCTION
MANAGEMENT DEPARTMENT**



MEMORANDUM

DATE: September 26, 2011

TO: Honorable Mayor & City Council

FROM: Alan Shubert, P.E.
City Engineer

SUBJECT: **Contractors Bond**

This memorandum is drafted in response to requests for more information and questions posed at the September 15th Legislative Review Committee and provides requested information regarding bonds in various municipalities in the State of Texas. The specific questions posed were:

- Obtain the current cost of bonds
- Obtain further information regarding bond requirements in other cities in Texas
- Assess the average roofing costs in El Paso
- Explain how the \$50,000 bond amount was determined

Information was gathered from Mr. John Rindt, President National Association of Surety Bond Producers, and Mr. Richard King, President of the El Paso Roofing Association as well as direct contact with representatives from the cities identified.

Current cost of bonds is between 1% to 3% of the face of the bond depending on other factors such as track record, years in business, credit worthiness/rating, etc.

Information gathered from representatives in other cities includes:
Abilene requires a \$25,000 as well as provides for lesser bond amounts for other trades/activities such as sign contractors etc.
Amarillo - \$20,000

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Austin - no contractor requirements (no bond or insurance required) for registration
Beaumont - \$15,000 as well as lesser bond amounts for specific trades/activities
Fort Worth - \$25,000 as well as lesser bond amounts for specific trades/activities
Houston - \$25,000 as well as lesser bond amounts for specific trades/activities
Lubbock - \$10,000 bond OR City is holder of Certificate of Liability for \$100,000
Midland - bond amounts dependent on specific trades/activities
San Antonio - City is holder of Certificate of Liability for \$100,000 with no bond required

Information on the average costs of roofing in El Paso includes:
Average home of 2000 sq. ft. (30 squares) composed of shingles would cost between \$7,500 & \$10,000, a flat roof would cost approximately \$10,500
Highest cost for local roof was approximately \$70,000 with smallest job costing approximately \$3,500
An average of 2 to 3 roofs per week would be optimum depending on crew size (100 or so jobs per crew annually)

How the \$50,000 bond amount was determined:
Mr. Rindt states that there has been a very high level of claims on bonds over the past three to four years. In fiscal year 09-10 a significantly greater number of permits were issued due to several wind storms and hail storms that year which may account for increase in level of activity in bond claims. In addition that same year a significant number of claims exceeded their bond limit of \$10,000. In the most extreme cases, the claims reached over \$40,000 leaving a number of residents without recourse. Those extreme cases were the basis for setting the bond amount at \$50,000

Currently there are approximately 850 contractors that have obtained the \$50,000 bond and registered with the City. These are in addition to those that do not require a bond such as Electrical, Mechanical and Plumbing contractors who are licensed by the State. Given the continuing research regarding bond amounts in Texas it would appear that the current \$50,000 bond amount should be reduced to \$25,000 in addition to providing for the exceptions identified previously.

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**ENGINEERING AND CONSTRUCTION
MANAGEMENT DEPARTMENT**

MEMORANDUM

DATE: September 27, 2011

TO: Honorable Mayor and City Council

FROM: R. Alan Shubert, P.E.
City Engineer

SUBJECT: Contractor Bond Requirements

This memorandum outlines some additional information relative to the proposed ordinance amendment scheduled for introduction on the October 4th agenda and public hearing to follow on October 18th.

Background:

Historically, the department has received several citizen complaints and complaints from members of Council concerning instances of contractor default. These concerns were exacerbated in 2009-2010 when an influx of permits were issued due to several wind and hail storms that resulted in claims often exceeding the prior bond limit of \$10,000.

In addition, some industry representatives had expressed an interest in creating regulations that require more professional service from the industry and create financial guarantees for work being done.

As an opportunity to address these variant requests, staff researched acceptable thresholds and discussed a proposed increase with surety bond producers and impacted stakeholders. As a result, the contractor bond requirement of \$50,000 was instituted with the comprehensive vetting process to update all technical codes. The latest series of technical codes was adopted by the City Council on September 21, 2010 and took effect on January 1, 2011.



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Proposed Amendment:

On Sept. 15, 2011, the LRC directed us to take this issue to the full council. At the request of the City Manager and Legislative Review Committee, staff has taken another look at the new bond requirements in place to determine if any modifications are warranted.

Over the last several weeks, additional research and benchmarking with other Texas cities was conducted to evaluate best practices. Among the communities surveyed, the bond amount of \$25,000 was most reflective of regulatory standards that align with the City of El Paso. Additional discussions with industry contacts and the President of the National Association of Surety Bond Producers, Mr. John Rindt also helped solidify the revisions brought forward for City Council consideration.

The proposed ordinance amendment being introduced on October 4, 2011 reduces the required bond amount for contractors from \$50,000 to \$25,000. Staff does not propose to modify the bond term from the existing two years, as we have experienced many instances where building code deficiencies are found after one full year has passed. Additional exception language is also included to address minor construction activities with an appropriate bond requirement at the \$10,000 level, such as temporary sign placements, fences and patch and repair. Lastly, general exceptions are also clarified.

Included with this memo for your review is the ordinance proposed by staff. I hope this meets with your approval. If you have any questions, please call me at 915-541-4428. Thanks for your attention and interest in this very important matter.

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