CITY OF EL PASO, TEXAS
REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: PARKS & RECREATION

AGENDA DATE: MARCH 4, 2008

CONTACT PERSON/PHONE: TERRENCE FREIBURG, PURCHASING MANAGER; SAM CALHOUN, PARKS SUPERINDENDENT

DISTRICT(S) AFFECTED: ALL

SUBJECT:
APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include $ amount if applicable.

Item should read as follows: That the Purchasing Manager is authorized to notify Helena Chemical Company, that the City is terminating Contract No. 2006-051 for default pursuant to the provisions and requirements of Sections C, 18B of the Contract Clauses due to the failure to perform under the Contract Terms and that the termination will be effective March 4, 2008.

BACKGROUND / DISCUSSION:
Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Helena Chemical Co. submitted a letter that they would no longer be able to honor the Terms & Conditions of contract 2006-051, awarded by Mayor & Council January 3, 2006.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?

Yes

AMOUNT AND SOURCE OF FUNDING:
How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A

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

\LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: Nanette Smejkal, Director, Park s & Recreation 2/25/08
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA: March 4, 2008

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

WHEREAS, the City awarded Contract No. 2006-051 to Helena Chemical Company, on January 3, 2006, for Fertilizer; and

WHEREAS, the City Council finds that the Company is in default of the provisions of the Contract; and

WHEREAS, pursuant to Section C 18B, of the Contract (Cancellation for Default), the City is authorized to terminate the Contract in the event of default by the Company.

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

That the Purchasing Manager is authorized to notify Helena Chemical Company, that the City is terminating Contract No. 2006-051 for default pursuant to the provisions and requirements of Section C 18B, of the Contract Clauses due to failure to perform and that the termination shall be effective as of March 4, 2008.

PASSED AND APPROVED this 4th day of March, 2008.

THE CITY OF EL PASO

John Cook
Mayor

ATTEST:

Richarda D. Momsen
Municipal Clerk

APPROVED AS TO FORM:

Bertha A. Ontiveros
Assistant City Attorney

APPROVED AS TO CONTENT:

Terrence Freiburg
Purchasing Manager

#37405 v1 - Purchasing/1/Reso Helena Chemical Termination
Document Author: BONT

HELENA CHEMICAL COMPANY
P.O. Box 629
Mesquite, NM 88048
(505) 233-3171
Fax: (505) 233-2790

November 27, 2007

City of El Paso
Purchasing Department
2 Civic Center Plaza 7th Floor

Procurement Officer,

Helena Chemical Company with much regret will not be able to honor contract number 2006-051 (fertilizer). The fertilizer market has seen a major cost increase. There are many factors causing this rapid and unprecedented fluctuation within the market. Contract 2006-051 is now well below our cost.

We appreciate your business and look forward to the opportunity to serve you in the future. We apologize for any inconvenience this may cause the city. I enclosed a market outlook letter from one of our suppliers to help explain what the industry is experiencing. Long term fertilizer contracts my not work in the future due to the volatile market.

If you have any questions please feel free to call me. My cell number is (575) 644-3060.

Sincerely,

Dan Blaeser
Branch Manger Specialty
Helena Chemical Company
Mesquite NM, 88048