

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

**DEPARTMENT:** DEPARTMENT OF TRANSPORTATION  
**AGENDA DATE:** APRIL 12, 2011  
**CONTACT PERSON/PHONE:** DARYL W. COLE, DIRECTOR, 621-6750  
BRUCE D. COLLINS, PURCHASING MANAGER: 541-4313  
**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.

That the City Manager be authorized to sign a Consent to Assignment of the contract by and between the City of El Paso, Deery American Inc. ("Assignor") and Crafcoc, Inc. ("Assignee") with respect to the City of El Paso Contract No. 2009-113.

**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?

On or after March 10, 2009, the City entered into Contract No. 2009-113 with Deery American Inc. Deery American Inc. was purchased by Crafcoc Inc. Assignee agrees to assume and perform all duties, obligations and responsibilities under Contract No. 2009-113.

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

Common Council action when vendor changes ownership/name and agrees to assume and perform all duties, obligations and responsibilities of a contract.

**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?

No change to funding

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:** \_\_\_\_\_  
(Example: if RCA is initiated by Purchasing, client department should sign also)  
*Information copy to appropriate Deputy City Manager*

**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, Deery American, Inc. ("Assignor") and Crafc0, Inc. ("Assignee") with respect to the City of El Paso Contract No. 2009-113 (Crack Seal Material).

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011

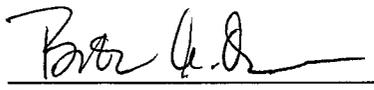
**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook  
Mayor

**ATTEST:**

\_\_\_\_\_  
Richarda D. Momsen  
Municipal Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Bertha A. Ontiveros  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Bruce D. Collins, Purchasing Manager  
Department of Financial Services

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**CONSENT TO ASSIGNMENT OF  
CONTRACT NO. 2009-113**

This Consent to Assignment is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011,  
by and between the City of El Paso (the "City"), Deery American, Inc. ("Assignor") and Crafc  
Inc. ("Assignee").

**WHEREAS**, on March 10, 2009, the City entered into Contract No. 2009-113 (Crack Seal  
Material) with Assignor for a term of thirty-six (36) months, which is fully incorporated herein by  
reference (the "Contract") to provide such goods to the City;

**WHEREAS**, after entering into the Contract, the assets of Assignor were sold to Assignee;

**WHEREAS**, the Contract provides that it is not assignable without the consent of the City;

**WHEREAS**, Assignor has requested that the City approve an assignment of the Contract to  
Assignee;

**WHEREAS**, Assignee has agreed to be responsible for all duties and obligations under the  
Contract; and

**WHEREAS**, the City agrees to the assignment of all rights, duties and obligations  
encompassed in the Contract to Assignee.

**NOW, THEREFORE, IT IS HEREBY AGREED as follows:**

1. The City consents to the assignment of the rights, duties and obligations under  
Contract No. 2009-113 to Assignee.
2. Assignee agrees to assume and perform all duties, obligations and responsibilities  
under Contract 2009-113.

3. All terms and conditions of Contract No. 2009-113 shall remain in full force and effect.
4. Assignee agrees to indemnify, defend and hold harmless the City from and against any and all claims, demands, causes of action, court costs, expenses, and attorney's fees which are connected with or arise from the assignment of these Contract or the City's acceptance and recognition of the assignment of Contract No. 2009-113.

*(Signature Page to follow)*

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**CONSENT TO ASSIGNMENT OF  
CONTRACT NO. 2009-113**

*(Signature Page)*

**EXECUTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2011

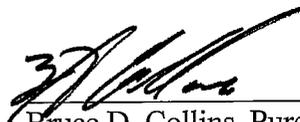
**THE CITY OF EL PASO**

\_\_\_\_\_  
Joyce A. Wilson  
City Manager

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Bertha A. Ontiveros  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Bruce D. Collins, Purchasing Manager  
Department of Financial Services

**ASSIGNOR:  
DEERY AMERICAN, INC.**

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ASSIGNEE:  
CRAFCO, INC.**

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

CONSENT TO ASSIGNMENT OF  
CONTRACT NO. 2009-113

(Signature Page)

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2011

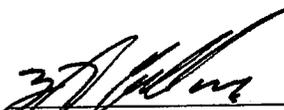
THE CITY OF EL PASO

\_\_\_\_\_  
Joyce A. Wilson  
City Manager

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Bertha A. Ontiveros  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Bruce D. Collins, Purchasing Manager  
Department of Financial Services

ASSIGNOR:  
DEERY AMERICAN, INC.

  
\_\_\_\_\_  
Name: Robert K. Zentner  
Title: PRESIDENT

ASSIGNEE:  
CRAFCO, INC.

  
\_\_\_\_\_  
Name: DONALD M. BROOKS  
Title: PRESIDENT