

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

DEPARTMENT: Environmental Services
AGENDA DATE: April 24, 2007
CONTACT PERSON/PHONE: Ellen A. Smyth, P.E., (915) 621-6719
DISTRICT (S) AFFECTED: District 8

SUBJECT:

Approve a Resolution with ENTACT Services, LLC

BACKGROUND / DISCUSSION:

EPA issued an administrative order requiring ASARCO to conduct soil removals and property restoration. ENTACT has been contracted by ASARCO to remove the soils. The Clint Landfill will be used to deposit this material with no tipping fee. Backfill material will be provided to ENTACT up to 20,000 cubic yards, as well as provide hauling services to the Clint Landfill.

PRIOR COUNCIL ACTION:

September 20, 2005

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

LEGAL: (if required) Josette Flores

FINANCE: (if required) _____

DEPARTMENT HEAD: _____

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

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

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CITY CLERK DEPT.

RESOLUTION

WHEREAS, the U.S. Environmental Protection Agency (“EPA”) issued an administrative order requiring ASARCO to conduct residential soil removal and property restoration activities within a designated area in and around the West and West-Central areas of the City of El Paso (the “Affected Area”); and

WHEREAS, ENTACT Services, LLC (“ENTACT”) has been retained by ASARCO to perform such removal and restoration activities, to the extent that such removal and restoration projects completed by ENTACT is limited by ASARCO’s defined budget available for such activities; and

WHEREAS, the EPA’s administrative order for removal and restoration was made in accordance with EPA’s mandate for the protection of the health and safety of El Paso citizens, and therefore such removal and restoration activities serve a public purpose; and

WHEREAS, the City of El Paso (the “City”) has determined that funds allocated for such removal and restoration activities should be expended in the most efficient manner in order to result in the completion of the largest number of removal and restoration projects possible; and that any attempts to increase the number of removal and restoration projects completed within the Affected Area would be in the best interest of the City, its affected residents, and the City’s population in general;

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

1. THAT the City of El Paso recognizes the public purpose in providing the assistance set forth herein to ENTACT Services, LLC in order to increase the number of completed residential soil removal and restoration projects within the Affected Area; and

2. THAT the Department of Environmental Services of the City of El Paso be authorized to provide various municipal resources available to assist ENTACT Services, LLC in completing additional soil removal and restoration activities in the Affected Area. Such municipal resources shall be provided at the discretion of the Director of the Department of Environmental Services and limited to the following services:

- A. The Department of Environmental Services is authorized to accept those materials collected by ENTACT during the execution of the residential soil removal and restoration projects located within the Affected Area (the “Materials”) free of all otherwise applicable charges at the City landfill. Acceptance of the Materials is conditioned upon: (i) a limitation of SEVENTEEN THOUSAND FIVE HUNDRED (17,500) cubic yards to be accepted by the City at the City landfill; (ii) receipt of written authorization from all applicable regulatory agencies for the acceptance of the Materials at the City landfill, including, but not limited to, the Texas Commission on

Environmental Quality ("TCEQ"); and (iii) receipt of documentation illustrating ENTACT's completion of, including the achievement of acceptable results from, any and all required environmental testing.

- B. The Department of Environmental Services is authorized to provide up to a total of TWENTY THOUSAND (20,000) cubic yards of backfill material to ENTACT for use in the provision of property restoration projects within the Affected Area free of all otherwise applicable charges. ENTACT is prohibited from use of such clean backfill materials in any projects not identified as an affected property by EPA and is responsible for any and all required environmental testing of the backfill material before its use.

- C. The Department of Environmental Services is authorized to provide hauling services to the City landfill for those Materials temporarily placed by ENTACT at a mutually agreed upon ASARCO location. Such hauling services shall be conditioned upon: (i) a limitation of TEN THOUSAND (10,000) cubic yards to be hauled by the City of El Paso; (ii) receipt of ASARCO's written approval to permit such hauling services from the City, including authorization to enter ASARCO property; and (iii) the issuance of written authorization for such staging and hauling activities by all appropriate regulatory agencies, including, but not limited to, EPA and/or TCEQ.

ADOPTED ON THIS _____ DAY OF APRIL, 2007.

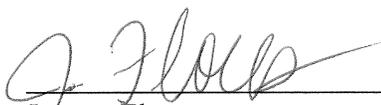
CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

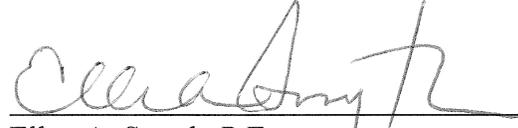
Richard Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Ellen A. Smyth, P.E.
Environmental Services Director

07 APR 2007 10:51 AM
CITY CLERK DEPT.