

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

DEPARTMENT: Financial Services

AGENDA DATE: June 15, 2010

CONTACT PERSON: Carmen Arrieta-Candelaria 4293 / Raquel Alarcon 4755

DISTRICT(S) AFFECTED: ALL

SUBJECT: Discussion and action on a resolution that the City Manager be authorized to sign the Interlocal Agreement by and between the City of El Paso and the Housing Authority of the City of El Paso ("HACEP") to sell HACEP surplus vehicles through the City's auctioning process from June 15, 2010 to June 14, 2011.

BACKGROUND / DISCUSSION: The City entered into a contract with GovDeals, Inc. whereby GovDeals provides auctioning services to the City. These auctioning services include city-owned vehicles of various types and city's surplus equipment. The HACEP has approached the City with the desire to have the City sell the HACEP's surplus vehicles through the City's auctioning process. The HACEP shall pay an auctioning fee based on the vehicles' auction selling price, which shall be paid by City to the Auctioneers pursuant to section 4 of the Auction Contract. Said auctioning fee may be increased or decreased to equal the auction fee that the City must pay under the Auction contract or any successor auction contract that is in effect at the time the vehicle is auctioned and sold. In addition, The HACEP agrees to pay the City an administrative fee of 4.00% for the City's services regarding the auctioning of the HACEP's vehicles.

PRIOR COUNCIL ACTION:

The City has entered into interlocal agreements with other governmental entities.

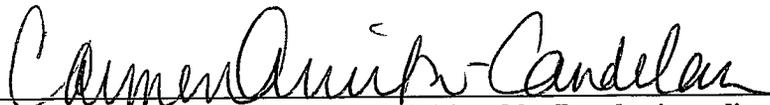
AMOUNT AND SOURCE OF FUNDING:

No cost to the City; Administrative fee of 4% to be used to offset the City administrative expense.

BOARD / COMMISSION ACTION: N/A

*****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

RESOLUTION

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

THAT the City Manager is hereby authorized to sign an Interlocal Agreement by and between the City of El Paso (the "**City**") and the Housing Authority of the City of El Paso (the "HACEP") whereby the City shall cause HACEP's surplus vehicles to be auctioned.

ADOPTED this _____ day of _____, 2010.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
Municipal Clerk

APPROVED AS TO FORM:



Bertha A. Ontiveros
Assistant City Attorney

APPROVED AS TO CONTENT:

Liza Ramirez-Tobias
Capital Asset Manager
Financial Services Department

STATE OF TEXAS)
)
)
COUNTY OF EL PASO)

**INTERLOCAL AGREEMENT BETWEEN
CITY OF EL PASO AND HOUSING
AUTHORITY OF THE CITY OF EL PASO**

This Interlocal Agreement ("**Agreement**") entered into this _____ day of _____, 2010, by and between the City of El Paso, Texas, a home rule municipality (the "**City**"), and the Housing Authority of the City of El Paso (the "**HACEP**").

RECITALS:

WHEREAS, Government Code Chapter 791. Interlocal Cooperation Contracts, otherwise known as the Interlocal Cooperation Act (the "**Act**"), allows local governments to contract with one another, to the greatest possible extent, to perform governmental functions to increase the efficiency and effectiveness of such governments;

WHEREAS, the City manages and conducts auctions of its surplus and abandoned vehicles which includes contracting with a vendor to provide auctioneering services for the sale of such vehicles;

WHEREAS, on May 14, 2009, the City entered into a contract with GovDeals, Inc. (the "**Auctioneers**"), whereby the Auctioneers provide auctioning services to the City (the "**Auction Contract**"). These auctioning services include auctioning of City-owned vehicles of various types, abandoned vehicles, and general City surplus equipment; and

WHEREAS, the HACEP and the City desire to have the City sell the HACEP's surplus vehicles (the "**Vehicles**") through the City's auctioning process.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. **SERVICES**. The City hereby agrees to sell the Vehicles through the City's auctioning process and pursuant to the terms of the Auction Contract, attached hereto as **Exhibit "A"**. The HACEP hereby agrees to deliver the Vehicles to the auction site at the specified times and dates only, as designated by the City. At the time the Vehicles are delivered to the City for auction, the HACEP shall also deliver each Vehicle's title, a signed "Application for Texas Title," and any other requisite document(s) necessary to effectuate the proper transfer of ownership of said vehicles to successful bidders.

The HACEP acknowledges that it has received a copy of the Auction Contract and agrees that the sale of the HACEP vehicles shall at all times be subject to the terms and conditions of such

contract, unless the City terminates such Auction Contract. The HACEP further acknowledges that the City may at any time terminate such Auction Contract and execute a new auction contract with another vendor, without the approval or consent of the HACEP. If the City executes a different auction contract, the City shall provide a courtesy copy of such contract to the HACEP and the Auction Contract attached as Exhibit "A" shall be automatically replaced with the new auction contract.

Section 2. **LIABILITY.** The HACEP hereby agrees that the City shall not be held responsible for any loss or damage to the Vehicles arising out of or relating to this Agreement.

Section 3. **FEES.** The HACEP shall pay an auctioning fee based on the Vehicles' auction selling price, which shall be paid by City to the Auctioneers pursuant to Section 4 of the Auction Contract. Said auctioning fee may be increased or decreased to equal the auction fee that the City must pay under the Auction Contract or any successor auction contract that is in effect at the time the Vehicles are auctioned and sold. In addition, the HACEP hereby agrees to pay the City an administrative fee of 4.0% for the City's services regarding the auctioning of the HACEP's Vehicles.

Section 4. **FUNDING SOURCE.** As required by the Act, the parties hereto hereby agree to pay for the performance of governmental functions or services hereunder from current revenues available to such party.

Section 5. **TERM.** The initial term of the Agreement shall be from June 15, 2010 to June 14, 2011. At the end of the initial term, this Agreement shall automatically renew for successive one-year terms.

Section 6. **TERMINATION.** The City or the HACEP may terminate this Agreement at any time upon thirty (30) days written notice via certified mail, return receipt requested to the other party. The obligations of the HACEP, including its obligations to pay the City for all costs incurred under this Agreement prior to such cancellation notice, shall survive such termination, as well as any other obligation incurred under this Agreement.

Section 7. **ALTERATIONS.** Any alterations, additions, or deletions to the terms of this Agreement which are required by federal or state law or regulation, are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

Section 8. **LEGAL CONSTRUCTIONS.** In case any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

Section 9. **RESERVATION OF RIGHTS.** Nothing herein shall be construed to be a waiver of sovereign immunity by any of the parties hereto, except to the limited extent required by law to enforce the parties' respective obligations to each other herein. The parties expressly

agree that, in all things relating to this Agreement, they are performing governmental functions, as defined by the Texas Tort Claims Act, and that every act or omission of the parties which, in any way, pertains to or arises out of this Agreement falls within the definitions of governmental function. Furthermore, no party shall be required hereunder to incur any monetary obligations or expend any funds that are not appropriated and budgeted by it; payment of any amounts in excess of budgeted figures by each party is conditioned upon it being able to obtain and appropriate funds for such payment.

Section 10. **DISPUTE RESOLUTION.** The parties hereto agree that reasonable efforts will be made to aid and assist the other in accomplishing the objectives of this Agreement. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or any breach thereof, the parties shall use their best efforts to meet regularly and resolve the dispute, claim, question, or disagreement. To this effect, the parties hereby agree to consult and negotiate with each other in good faith. The parties further agree that should their efforts to resolve a dispute, claim, questions, or disagreement arising from this Agreement fail, that before either party files suit against the other to enforce, or otherwise relating to, the terms of this Agreement, it shall notify the other party of its intent to sue. Upon delivery and receipt of such notice, the parties agree to submit the matter to be litigated to mediation before a mutually-agreed upon mediator and to diligently pursue a mediated settlement until such time as the parties mutually agree to terminate such mediation or the mediator declares an impasse. No lawsuit under this Agreement by one party against the other may be filed until mediation of the issue has ended in accordance with the terms hereof.

Section 11. **NOTICES.** Any notice, demand, requests, consent or approval that either party may or is required to provide to the other, shall be in writing and either personally delivered or sent via Certified Mail, Return Receipt requested, to the following addresses:

To the City: The City of El Paso
 Attention: City Manager
 2 Civic Center Plaza, 10th Floor
 El Paso, Texas 79901

With a copy to: The City of El Paso
 Attn: Capital Assets Manager
 2 Civic Center Plaza, 7th Floor
 El Paso, Texas 79901

To the HACEP: Housing Authority of the City of El Paso
 Attn: Chief Executive Officer
 5300 E. Paisano Drive
 El Paso, Texas 79905

Changes may be made to the above addresses and addressees through timely written notice to the other party.

Section 12. **VENUE.** For the purpose of determining the place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

Section 13. **AUTHORITY TO EXECUTE AGREEMENT.** Each person signing below represents that he or she has read this Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the Party, and agrees on behalf of such party that such Party will be bound by those terms.

Section 14. **HEADINGS.** The headings of the sections contained in this Agreement are included herein for reference purposes only, solely for the convenience of the parties hereto, and shall not in any way be deemed to affect the meaning, interpretation, or applicability of this Agreement or any term, condition or provision hereof.

Section 15. **EXECUTION AND COUNTERPARTS.** This Agreement may be executed in any number of counterparts; each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one instrument. Any one of such counterparts shall be sufficient for the purpose of proving the existence and terms of this Agreement, and no party shall be required to produce an original or all of such counterparts in making such proof.

Section 16. **ENTIRE AGREEMENT.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statements of promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

(Signature page to follow)

STATE OF TEXAS)
)
)
COUNTY OF EL PASO)

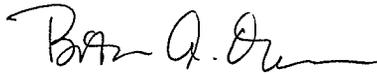
**INTERLOCAL AGREEMENT BETWEEN
CITY OF EL PASO AND HOUSING
AUTHORITY OF THE CITY OF EL PASO**

Signature Page

CITY OF EL PASO

Joyce Wilson
City Manager

APPROVED AS TO FORM:

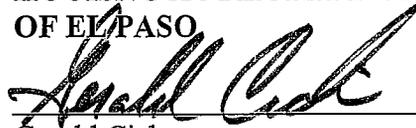


Bertha A. Ontiveros
Assistant City Attorney

APPROVED AS TO CONTENT:

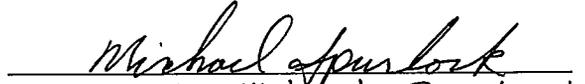
Liza Ramirez-Tobias
Capital Assets Manager
Financial Services Department

**HOUSING AUTHORITY OF THE CITY
OF EL PASO**



Gerald Cichon
Chief Executive Officer

APPROVED AS TO FORM:



Name Printed: Michael Spurlock
Attorney for HACEP

GovDeals

Sellers Agreement

This Agreement is between GovDeals, Inc. ("GovDeals"), a Delaware corporation having its principal place of business at 5907 Carmichael Place, Montgomery, Alabama, 36117 and The City of El Paso ("Client"), having its principal place of business at 2 Civic Center Plaza – El Paso, Texas 79901.

- 1.0 **Description of Services:** GovDeals provides a means for sellers to list items for sale and for potential buyers to bid upon these items via an Internet-based auction system. Although GovDeals may provide software and applications to the Client to make the listing of items easier, GovDeals is not a party to the actual sale and has no control over the listed information or the ability of the buyer and seller to complete the transaction.

- 2.0 **GovDeals Responsibilities:** In addition to the operation of an Internet auction server, GovDeals will provide the Client with the following services during the term of the Agreement:
 - 2.1 Access to a web-based application ("GovDeals Auction Server") that will help the Client maintain information about assets and submit them to auction. The GovDeals Auction Server will:
 - 2.1.1 Accept descriptive information concerning an asset;
 - 2.1.2 Allow different auction phases based upon dates and times to be specified;
 - 2.1.3 Permit the assignment of certain buyer restrictions during each auction phase; and
 - 2.1.4 Facilitate requests for credits regarding transactions that were not completed.
 - 2.2 Training and support services to implement the GovDeals service, which will include:
 - 2.2.1 Familiarization with the nature and operation of the GovDeals Auction Server;
 - 2.2.2 Guidance in the initial entry of assets;
 - 2.2.3 Procedures for taking and posting pictures of assets; and
 - 2.2.4 Assistance in the development of an implementation plan and schedule.At GovDeals option, training and support services will be provided either on-site or via telephone and the Internet.
 - 2.3 A customer support desk available via telephone or e-mail between the hours of 8:00 a.m. and 6:00 p.m., Eastern Time, Monday through Friday, except announced holidays.
 - 2.4 Marketing of the on-line auction service to promote use of the site by potential buyers.

- 3.0 **Client Responsibilities:** To promote a successful operation and increase the benefits from using GovDeals auction capabilities, the Client agrees to:
 - 3.1 Provide on-site support and resources required to access the GovDeals Auction Server via the Internet;

- 3.2 Make sufficient personnel related to surplus property disposal available for training, implementation, and initial data entry;
- 3.3 Cooperate with marketing campaigns, including providing a mailing list of prior auction customers, if available; and
- 3.4 Utilize GovDeals Auction Server and on-line auction capabilities during the term of this Agreement by:
 - 3.4.1 Listing assets for sale on the GovDeals auction service;
 - 3.4.2 Completing sales transactions for assets sold via this service;
 - 3.4.3 Not selling through some other means any item for which it has received a winning bid via GovDeals for the specific purpose of avoiding the GovDeals fee; and
 - 3.4.4 Not engaging, directly or indirectly, in any activities intended to manipulate or interfere with the bidding process.

4.0 **Fees:** Client shall pay to GovDeals the fees set forth in this section. The total compensation due to GovDeals pursuant to this Agreement shall not at exceed FIFTY THOUSAND DOLLARS (\$50,000) during the contract term. The total compensation may be increased, and any increase in the total compensation shall be come effective, only upon the execution of a written instrument duly authorized by the Client pursuant to state law and executed by the Client's City Manager as an amendment to this Agreement.

For any item that is sold as a result of posting it to the GovDeals web site, the following fees apply:

- 4.1 Where a single auction item does not yield greater than \$100,000 in a winning bid, Client agrees to pay GovDeals a fee of seven and one-half percent (7.5%) of the winning bid, but not less than \$5.00.
- 4.2 Where a single auction item yields greater than \$100,000, but does not yield greater than \$500,000 in a winning bid, Client agrees to pay GovDeals a fee of seven and one-half percent (7.5%) of the winning bid up to \$100,000 plus five and one-half percent (5.5%) of the winning bid that is in excess of \$100,000 up to \$500,000.
- 4.3 Where a single auction item yields greater than \$500,000 in a winning bid, Client agrees to pay GovDeals a fee of seven and one-half percent (7.5) of \$100,000 of the winning bid, plus a fee of five and one-half percent (5.5%) of \$400,000 of the winning bid, plus a fee of three and one-half percent (3.5%) of the amount in excess of \$500,000 of the winning bid.
- 4.4 On occasion, and apart from initial training, the Client may request GovDeals to supply on-site assistance to quickly move large amounts of items that have accumulated over a period of time. For this service GovDeals will charge an additional 7.5% fee or a total fee of 15%. For this additional fee GovDeals will go to the Client's site and record asset descriptions, take pictures, load assets to the auction site, and set auction dates. Assets must be arranged in such a manner as to allow GovDeals personnel access to the assets for recording descriptions and taking pictures. If assets are not arranged in the proper manner, the Client will provide personnel to assist the GovDeals representatives in arranging the assets for proper presentation. The additional 7.5% fee does not apply to assets used in the initial

training and will not apply when the Client processes its own assets.

- 5.0 Financial Settlement Service (Auction Proceeds Collected by GovDeals):** Client can elect to have GovDeals collect Auction Proceeds from the winning Bidder. If Client elects this optional service, please read and approve the attached Addendum Number One (1) which follows the approval page of this Sellers Agreement. If Client prefers to collect the Auction Proceeds, simply remove Addendum Number One (1) and approve the Sellers Agreement. Based on the option selected, the Terms and Conditions will be modified to conform to the collection method chosen.
- 6.0 Payment:**
- 6.1** GovDeals will invoice Client for fees on a periodic basis. Client agrees to remit payment to GovDeals within thirty (30) calendar days, unless an applicable prompt payment act or similar legislation specifies a different time period.
- 6.2** Client shall promptly, but not more than sixty (60) calendar days after the sale date, notify GovDeals of any transaction that was not consummated. The fees for said transaction shall be credited to the Client during the next invoice period.
- 7.0 Term of Agreement:** This Agreement shall commence on the date it is signed by the second party to do so and will continue for a period of twelve months unless otherwise terminated upon sixty days written notice by either party. This Agreement shall be automatically extended for additional one-year periods, unless either party notifies the other in writing of its intent not to renew at least sixty days prior to the anniversary date. Either party may request a re-negotiation of the terms hereof during a period sixty days prior to the anniversary date of this Agreement. Any charges owed either party prior to terminating the agreement will remain payable.
- 8.0 Right to Sell and Content:** Client will only post items to the GovDeals auction site that the Client has the legal right to sell or dispose of to qualified buyers. Any information posted will be accurate to the best of Client's ability and not contain anything of a pornographic or objectionable nature. Client agrees to only use links to digital pictures of associated assets as provided for in the GovDeals software, and will not create links to any other site, text or other information without the written consent of GovDeals.
- 9.0 Online Sales - Terms and Conditions:** Attached hereto are model Online Sales – Terms and Conditions for use by client. At any time during the term of this Agreement, Client may modify the Terms and Conditions. Said substitution modification must be submitted to GovDeals in writing for posting to the GovDeals auction site. The Terms and Conditions posted to the GovDeals auction site shall not modify, amend or affect the provisions of this Agreement
- 10.0 Information and Security:**
- 10.1** Client agrees that GovDeals is not responsible for the accuracy of information provided to it by seller(s) and/or buyer(s). GovDeals will use reasonable efforts to protect information that is on its web site from inappropriate use and loss.

10.2 Client grants GovDeals a non-exclusive, non-transferable, irrevocable, and royalty-free right to exercise any copyright or publicity rights Client may have in the information it posts to the GovDeals server(s). GovDeals agrees to use this information only for its intended purpose in support of this Agreement.

11.0 **Interference:** Client will not use any programs, routines, or applications in connection with GovDeals that will interfere with the operation of the software or site. Specifically, the Client will only communicate with the GovDeals Auction Server by using software and applications that GovDeals provides or specifically approves in writing.

12.0 **Proprietary Intellectual Property Exclusivity and Confidentiality:** The proprietary Internet-based auction system, environment, and components (collectively, the "System") provided by GovDeals under this Agreement are, and will remain, the exclusive property of GovDeals. GovDeals retains and reserves all rights to the proprietary intellectual property, including, but not limited to, all copyrights and trademarks of and to the System. GovDeals is providing the Client hereunder with a license for said System solely for its own use.

Client may not subcontract, sell, lease, transfer, assign or otherwise share said System with any third party. Client acknowledges that the System constitutes the proprietary and confidential property of GovDeals and agrees not to directly or indirectly use, employ, divulge, disclose, transfer, or communicate to any person, firm, corporation or other entity, in any manner whatsoever, any of the System or documentation/information provided by GovDeals. In the event of termination of this Agreement, Client shall promptly return to GovDeals or at the option of GovDeals destroy, all documentation/information regarding the System.

13.0 **Warranty Disclaimer:** GovDeals does not warrant error-free or uninterrupted use of the GovDeals service. The GovDeals web sites, services, software and applications are provided without warranty, express or implied, including, but not limited to, any implied warranties for merchantability or fitness for a particular purpose. GovDeals, its directors, officers, employees, agents and/or affiliates shall not be liable for any loss of profit and/or any direct, indirect, special, incidental or consequential damages resulting from the services offered herein.

14.0 **Governance:** This Agreement will be governed, interpreted, construed and enforced in accordance with the laws of the State of Texas.

15.0 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which after execution and delivery shall be deemed an original, but all of which shall constitute one and the same instrument.

16.0 **Non-Exclusive Engagement:** This Agreement is not exclusive. The Client may utilize other disposal approaches, including traditional auctioneer services and sealed bids in addition to GovDeals services. However, it is understood and agreed that the Client will

not simultaneously utilize other disposal approaches and GovDeals while an asset is listed on a GovDeals auction.

- 17.0 **Entire Agreement:** This Agreement represents the entire understanding between the parties with respect to its subject matter.
- 18.0 **Promotional Reimbursement:** Client acknowledges that GovDeals will pay Texas Association of School Boards, Inc. (TASB) a promotional reimbursement for each sale made through GovDeals.
- 19.0 **No bidding by GovDeals or TASB:** Neither GovDeals nor TASB will bid on items listed on the GovDeals website.

#2381
Auto Renew

THE ABOVE AGREEMENT IS ACCEPTED AND AGREED TO.

GovDeals:

By: Robert L. DeBardelaben

Name: Robert L. DeBardelaben

Title: President

Date: 5/15/09

City of El Paso Approved as to Content:

By: Joyce Wilson

Name: Joyce Wilson

Title: City Manager

Date: MAY 14, 2009

City of El Paso Approved as to Form:

By: Bertha Ontiveros

Name: Bertha Ontiveros

Title: Assistant Attorney

Date: MAY 14, 2009

Sellers Agreement Mailing

Primary Contact Person:

Address and Contact :

Attention: Sales Support
5907 Carmichael Place
Montgomery, AL 36117
Fax Number: (334) 387-0519
salesupport@govdeals.com

Primary Contact Person for COEP

Name: Liza Ramirez-Tobias
Title: Capital Asset Manager
Telephone Number: (915) 541-4074
Fax Number: (915) 541-4347
e-mail: ramirezLM@elpasotexas.gov

Primary Contact Person:

(Contract development)

Name: James Oakley
Title: Sales Representative Texas Region
Telephone Number: (512) 560-6240
Fax Number: (334) 387-0519
e-mail: joakley@govdeals.com

Addendum Number One (1)
Financial Settlement Memo of Understanding

This Memo of Understanding is between GovDeals, Inc. (GovDeals) having its principal place of business at 5907 Carmichael Place, Montgomery, Alabama 36117 and The City of El Paso ("Client"), having its principal place of business at 2 Civic Center Plaza – El Paso, Texas 79901.

It is understood the Client wants GovDeals to collect all monies due the Client from the winning Bidder and remit the auction proceeds to the Client.

It is understood GovDeals will charge the winning Bidder a 5% Buyer's Premium based on the final sale price of all items sold. The Buyer's Premium will help offset the costs of electronic funds collection, funds reconciliation, charge backs and remittance of funds to the Client.

It is understood the Client is not allowed to charge the winning Bidder an additional "Buyer's Premium."

It is understood GovDeals will collect all auction proceeds from the winning Bidder, including the 5% "Buyer's Premium" through PayPal, Credit Card and Wire Transfer.

It is understood the Client will not release a piece of equipment to the winning Bidder until the Client has received verification from GovDeals that payment has been received from the winning Bidder.

It is understood GovDeals will remit all funds collected, less the 5% Buyer's Premium to the Client on a weekly basis for all items marked in the Client's online account (CAS) as "Paid For/Picked Up."

It is understood prior to an item being released to the winning Bidder the Client will ensure the winning Bidder or his/her agent has signed a "Bill of Sale" with a notation that the item is sold "As Is, Where Is and without Warranty." The Bill of Sale must be printed from the Client's assigned account with GovDeals.

It is understood no monies will be remitted to the Client for any equipment released without verification from GovDeals of approved payment from the winning Bidder through PayPal, Credit Card or Wire Transfer.

It is understood the Client will not collect any funds directly from the winning Bidder and if requested to do so, the Client should refer the winning Bidder directly to GovDeals for payment instructions.

It is understood GovDeals will absorb all cost of Charge Backs by PayPal or a Credit Card Company if an item is released after proper payment notification is received by the Client from GovDeals and a signed Bill of Sale is received from the winning Bidder by the Client.

It is understood GovDeals will not absorb a Charge Back won by a bidder in those rare occasions where a bidder pays for an item but never picks up the item and subsequently convinces PayPal or the Credit Card Company to charge the amount paid back to GovDeals. Since the Client did not lose the item and has the opportunity to resell it, the client agrees to refund the Charge Back amount to GovDeals or agrees to allow GovDeals to withhold the Charge Back amount from future payments owed the Client.

It is understood that a GovDeals Client Services Representative or a GovDeals Help Desk Representative will train the Client on how to effectively use the Financial Settlement feature and provide ongoing support as needed by GovDeals. There are no additional costs to the Client for this training and support.

It is also understood that GovDeals is covered by a Crime Insurance Policy with a limit of \$5,000,000.00 that will protect the Client against any loss of funds.

Approved for GovDeals:
Robert W. Baddo
President 5/15/09
Title Date

Approved for Client:
Joseph B. Medina
City Manager 5.14.09
Title Date

Please complete payment instructions below:

Accounting Contact:

Liza Tobias, Asset Manager
Name and Title

E-Mail Address:

ramirez.LM@elpasotexas.gov

Phone Number:

915.341.4074

Make check Payable to:

City of El Paso
Client's Legal Name

Mail Check to:

2 Civic Center Plaza
Street Address or P.O. Box Number

El Paso, TX 79901
City, State and Zip Code

GovDeals
Sellers Agreement
Online Sales – Terms and Conditions

City of El Paso
El Paso, Texas

Online Sales – Terms and Conditions

All bidders and other participants of this auction agree that they have read and fully understand these terms and agree to be bound thereby.

Guaranty Waiver. All property is offered for sale “**AS IS, WHERE IS.**” The **City of El Paso (Seller)** makes no warranty, guaranty or representation of any kind, expressed or implied, as to the merchantability or fitness for any purpose of the property offered for sale. The Buyer is not entitled to any payment for loss of profit or any other money damages – special, direct, indirect, or consequential.

Description Warranty. Seller warrants to the Buyer that the property offered for sale will conform to its description. Any claim for misdescription must be made prior to removal of the property. If **Seller** confirms that the property does not conform to the description, **Seller** will keep the property and refund any money paid. The liability of the **City of El Paso** shall not exceed the actual purchase price of the property. Please note that upon removal of the property, **all sales are final.**

Personal and property risk. Persons attending during exhibition, sale or removal of goods assume all risks of damage of or loss to person and property and specifically release the seller and **GovDeals** from liability therefore.

Inspection. Most items offered for sale are used and may contain defects not immediately detectable. Bidders may inspect the property prior to bidding. Bidders must adhere to the inspection dates and times indicated in the item description. See special instructions on each auction page for inspection details.

Consideration of Bid. The **City of El Paso** reserves the right to reject any and all bids and to withdraw from sale any of the items listed.

Buyer's Certificate. Successful bidders will receive a Buyer's Certificate by email from **GovDeals.**

Payment. Payment in full is due not later than **5 business days** from the time and date of the Buyer's Certificate. Acceptable forms of payment are:

- U. S. Currency
- Certified Cashiers Check
- Money Order

- Company Check (with Bank Letter guaranteeing funds – **mandatory**)

Checks shall be made payable to: **City of El Paso**. Payments shall be made at the location listed in the Buyer's Certificate.

Escrow Payment. When the purchase price (of a single item or the aggregate purchase price of multiple items) totals \$5,000 or greater, the Seller may require a down payment from the winning Buyer. This non-refundable fee will be 20% of the total purchase price. When the Seller exercises this option, the Buyer will have 48-hours from the time of issuance of the Buyers Certificate, to comply with this requirement. If Buyer fails to comply with this requirement within the stated time frame, the Seller can declare Buyer in default, bar them from further bidding and have them removed from the GovDeals system. If Buyer is in default, Seller may negotiate with next closest bidder, re-list at another auction and/or pursue all legal proceedings. All monies collected in escrow, will be deducted from total monies due at time of final payment.

Removal. All items must be removed within **10 business days** from the time and date of issuance of the Buyer's Certificate. Purchases will be released only upon receipt of payment as specified. Successful bidders are responsible for loading and removal and any and all property awarded to them from the place where the property is located as indicated on the website and in the Buyer's Certificate. The Buyer will make all arrangements and perform all work necessary, including packing, loading and transportation of the property. Under no circumstances will the **City of El Paso** assume responsibility for packing, loading or shipping. See special instructions on each auction page for removal details. A daily storage fee of \$10.00 may be charged for any item not removed within the 10 business days allowed and stated on the Buyer's Certificate.

Vehicle Titles. Seller will issue a title or certificate upon receipt of payment. Titles may be subject to any restrictions as indicated in the item description on the website. Open titles cannot be issued. The **City of El Paso** will not issue replacement titles.

Default. Default shall include (1) failure to observe these terms and conditions; (2) failure to make good and timely payment; or (3) failure to remove all items within the specified time. Default may result in termination of the contract and suspension from participation in all future sales until the default has been cured. If the Buyer fails in the performance of their obligations, **Seller** may exercise such rights and may pursue such remedies as are provided by law. Seller reserves the right to reclaim and resell all items not removed by Buyer thirty (30) days from the expiration of specified removal date and Seller is under no obligation to refund any monies received from the bidder.

Acceptance of Terms and Conditions. By submitting a bid, the bidder agrees that they have read, fully understand and accept these Terms and Conditions of Online Sales, and agree to pay for and remove the property, if the bid is accepted, by the dates and times specified. These Terms and Conditions are displayed at the top of each page of each item listed on GovDeals.

State/Local Sales and/or Use Tax. Buyers may be subject to payment of State and/or local sales and/or use tax. Buyers are responsible for contacting the appropriate tax office, completing any forms, and paying any taxes that may be imposed.

Sales to Employees. Employees of the **City of El Paso** may bid on the property listed for auction, so long as they do NOT bid while on duty.

**MEETING HELD BY THE BOARD OF COMMISSIONERS OF THE HOUSING
AUTHORITY OF THE CITY OF EL PASO, TEXAS ON MAY 26, 2010**

RESOLUTION NO. 1656

The following resolution was introduced by Chairperson Fernandez and considered.

WHEREAS, The Board of Commissioners of the Housing Authority of the City of El Paso, Texas approved resolution approving an interlocal cooperation agreement with the City of El Paso for the sale of Housing Authority vehicles and equipment under the auction contract between the City of El Paso and GovDeals, Inc., and authorizing the Chief Executive Officer to execute the agreement.

After discussion Commissioner Coyle moved that the resolution presented to the Board be adopted. The motion was seconded by Commissioner Chavez and on roll call the following vote was recorded:

AYES: Commissioners Coyle, Chavez, Pratt, Quinn, and Fernandez.

NAYS: None.

The Chairperson thereupon declared the motion carried and the resolution adopted.

ATTEST:


Secretary

RESOLUTION NO. 1656

**RESOLUTION APPROVING AN INTERLOCAL COOPERATION AGREEMENT
WITH THE CITY OF EL PASO FOR THE SALE OF HOUSING AUTHORITY
VEHICLES AND EQUIPMENT UNDER THE AUCTION CONTRACT
BETWEEN THE CITY OF EL PASO AND GOVDEALS, INC.,
AND AUTHORIZING THE CHIEF EXECUTIVE OFFICER
TO EXECUTE THE AGREEMENT**

WHEREAS, the City of El Paso (City) has an auction contract with GovDeals, Inc. for the sale of the City's surplus vehicles; and

WHEREAS, it is in the interest of the Housing Authority of the City of El Paso (Housing Authority) to sell its surplus vehicles through the City's auction contract;

NOW, THEREFORE, BE IT RESOLVED, that the Commissioners of the Housing Authority of the City of El Paso, Texas, approve the Interlocal Cooperation Contract between the City and the Housing Authority for sale of surplus Housing Authority vehicles and equipment through the City's auction contract.

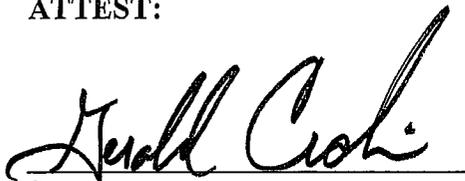
PASSED AND APPROVED, this 26th day of May 2010.

**HOUSING AUTHORITY OF THE
CITY OF EL PASO, TEXAS**



Joe Fernandez, Chairperson

ATTEST:



Secretary