

JOHN F. COOK
MAYOR



JOYCE WILSON
CITY MANAGER

CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSIE BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
CARL L. ROBINSON, DISTRICT 4
MICHIEL R. NOE, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
CORTNEY CARLISLE NILAND, DISTRICT 8

REGULAR COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
July 26, 2011
8:30 A.M.

The City Council met in regular session at the above place and date. Meeting was called to order at 8:32 a.m. Mayor John F. Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Susannah M. Byrd, Carl Robinson, Michiel R. Noe, Steve Ortega, and Cortney Carlisle Niland. Late arrival: Emma Acosta at 9:03 a.m. during Executive Session deliberations, and Eddie Holguin, Jr. at 10:53 a.m. The invocation was given by Police Chaplain Lisle Davis, followed by the Pledge of Allegiance to the Flag of the United States of America.

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RECOGNITIONS

1. **Mr. Carlos I. Valles, - 25 years**
2. **Ms. Lorenza O. Perez – 25 years**
3. **Mr. Sergio E. Ramos – 25 years**
4. **Mr. Rodolfo Yanez, Jr. – 25 years**
5. **Ms. Carmen A. Hernandez – 25 years**
6. **Mr. Enrique Gonzalez – 25 years**
7. **Mr. Julian J. Moreno – 30 years**

CALL TO THE PUBLIC – PUBLIC COMMENT

This time is reserved for members of the public who would like to address the City Council on items that are not on the City Council Agenda.

A sign-up form is available on line at https://www.elpasotexas.gov/muni_clerk/contact_public.asp for those who wish to sign up in advance of the meeting date and a sign-up form is available outside the City Council Chambers at the City Clerk table for those who wish to sign up on the day of the meeting.

Requests to speak must be received by 9:00 a.m. on the date of the meeting.

30 Minutes total is allotted for speakers.

Three to five minutes may be allowed for each speaker.

The following members of the public commented:

1. Mr. Steven Silver
2. Mr. Bob Norris
3. Mr. Gerald Cichon
4. Mr. J. V. DeSousa
5. Mr. Salvador Gomez
6. Mr. Manny Hinojosa
7. Ms. Lisa Turner

1ST MOTION

Motion made by Representative Ortega, seconded by Representative Niland, and unanimously carried to **SUSPEND THE RULES OF ORDER** to allow Mr. Bob Norris one additional minute to address the Council after the signup period.

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Motion made by Representative Robinson, seconded by Representative Ortega, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 8:32 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.076 to discuss any of the following:

- Section 551.071 CONSULTATION WITH ATTORNEY
- Section 551.072 DELIBERATION REGARDING REAL PROPERTY
- Section 551.073 DELIBERATION REGARDING PROSPECTIVE GIFTS
- Section 551.074 PERSONNEL MATTERS
- Section 551.076 DELIBERATION REGARDING SECURITY DEVICES
- Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

Discussion and action on the Executive Session items listed on the Agenda.

AYES: Representatives Lilly, Byrd, Robinson, Noe, Ortega, and Niland
NAYS: None
NOT PRESENT FOR THE VOTE: Representatives Acosta and Holguin

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Ortega, and unanimously carried to adjourn the Executive Session at 9:00 a.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

AYES: Representatives Lilly, Robinson, Noe, Ortega, and Niland
NAYS: None
NOT PRESENT FOR THE VOTE: Representatives Byrd, Acosta, and Holguin

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EX1. William Benjamin Ellsworth, et al vs. Cheryl Maxine Villa, et al; Cause No. 2010-3381. (551.071)

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Robinson, and carried that the City Attorney's Office be authorized to deny all claims arising from the lawsuit styled William Benjamin Ellsworth, et al vs. Cheryl Maxine Villa, et al; Cause No. 2010-3381, and take all actions necessary to protect the City's interests in this lawsuit.

AYES: Representatives Lilly, Byrd, Robinson, Noe, Ortega, and Niland
NAYS: None
NOT PRESENT FOR THE VOTE: Representative Acosta and Holguin

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EX2. Saul Medrano vs. City of El Paso, Cause No. 2009-1876 (551.071)

Motion made by Representative Robinson, seconded by Representative Ortega, and unanimously carried to **DELETE** the item regarding Saul Medrano vs. City of El Paso, Cause No. 2009-1876 (551.071).

AYES: Representatives Lilly, Byrd, Robinson, Noe, Ortega, and Niland
NAYS: None
NOT PRESENT FOR THE VOTE: Representative Acosta and Holguin
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CONSENT AGENDA

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Ortega, and unanimously carried to **APPROVE, AS REVISED**, all matters listed under the Consent Agenda unless otherwise noted. (Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {*}).

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Holguin

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1. APPROVAL OF MINUTES

*Motion made, seconded, and unanimously carried to **APPROVE** the Minutes for the Regular City Council Meeting of July 19, 2011 and the Special City Council Meeting of July 20, 2011 (Budget Hearings for Community Development, Museums & Cultural Affairs, Zoo, Library, Parks and Recreation, and Convention & Performing Arts) and the Special City Council Meeting of July 21, 2011 (Budget Hearings for Airport, International Bridges, Department of Transportation, Public Transit - Sun Metro, and Environmental Services).

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2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS

NO ACTION was taken on this item.

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3A.

***RESOLUTION**

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

THAT the City Manager be authorized to sign the First Amendment to the State Use Contact for Grounds Maintenance Service by and between the City of El Paso, a Texas home rule municipal corporation ("the City"), and TIBH, Inc. ("TIBH"), a private non-profit corporation and the certifying party, and Border Tm Industries, Inc., the performing party ("Contractor") to extend the contract until November 1, 2011.

Representative Ortega commented.

Ms. Joyce Wilson, City Manager, commented.

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3B.

RESOLUTION

WHEREAS, Conference USA is a collegiate athletic league which includes the University of Texas at El Paso as one of its 12 member schools;

WHEREAS, Conference USA sponsors an annual Men's and Women's Basketball Tournament that historically draws roughly 3,000 over an 8-day period (March 9-16, 2013 or March 8-15, 2014) generating an estimated economic impact of \$3.5 million;

WHEREAS, the City of El Paso ("City") and the County of El Paso ("County") are interested in making a bid for the 2013 or 2014 Conference USA Basketball Tournaments; and

WHEREAS, it is anticipated that the 2013 or 2014 Conference USA Basketball Tournament will each generate approximately \$1.1 million in ticket sales while the expenses for each are expected to be \$500,000 for tournament participant members and \$350,000 in fixed expenses or approximately \$850,000 in expenses for each tournament.

NOW THEREFORE BE IT JOINTLY RESOLVED, that the County and the City are proud to support the bid to bring either the 2013 or 2014 Conference USA Basketball Tournament to El Paso and are willing, as a contingency plan, to each contribute one half of any revenue shortfall to cover the estimated expenses of \$850,000 not covered by ticket sales. The City and County will establish by agreement at a future date the amounts to be appropriated, and that the City’s share will be paid out of the City’s Hotel Occupancy Tax fund.

Mayor Cook and Representative Ortega commented.

Mr. William Blaziek, Convention and Visitors Bureau General Manager, commented.

Mr. Bob Stull, UTEP Athletics Director, commented.

1ST MOTION

*Motion made, seconded, and unanimously carried to **MOVE TO REGULAR**.

2ND MOTION

Motion made by Representative Ortega, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Holguin

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3C.

***RESOLUTION**

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

THAT the City Manager be authorized to sign a Temporary Overhead Electrical Easement to the El Paso Electric Company for the purpose of providing electrical service to a temporary concrete batch plant to be located on City property, said easement being more particularly described as a portion of Lots 1 and 2, Block 4, And a portion of Lot 1, Block 5, Christy Tract, City of El Paso, El Paso County, Texas. The temporary overhead electrical easement shall expire on April 30, 2013.

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3D.

***RESOLUTION**

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

THAT the City Council approves the expenditure of additional available funding in the amount of \$220,396.72 to Martinez Bros. Contractors, LLC for additional construction costs for Pasodale Subdivision Street and Drainage Improvements Phase III. The change order provides for landscaping of street parkways in compliance with directive from City Council on November 16, 2010 that all projects involving City-owned property comply with Smart Growth principles and design standards, adding Fifty Four days of

contract time for Contract Number 2011-079. The new contract sum, including this change order, is \$1,998,018.02.

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3E.

***R E S O L U T I O N**

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

THAT the City Council approves the expenditure of additional available funding in the amount of \$390,270.90 to JAR Concrete, Inc. dba JAR Construction, Inc. for additional construction costs for EPIA Runway 8R-26L & Taxiway L Extension & Reconstruction of Taxiway W. The change order provides for a medium-intensity lighting system with runway alignment indicator lights (MALSR) as requested by the Federal Aviation Administration. At the time the construction contract was awarded the project called for a medium-intensity approach lighting system with Sequenced Flashing Lights (MALSF), adding fifty-four (54) days of contract time for Contract Number 2010-268. The new contract sum, including this change order, is \$7,629,907.

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3F.

***R E S O L U T I O N**

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

THAT the City Manager be authorized to sign an Overhead Electrical Easement to the El Paso Electric Company for the purpose of providing upgraded electrical service to a City building at 1725 Arizona Avenue, said easement being more particularly described as a portion of Lots 11 through 17, Block 5, Golden Hill Subdivision, City of El Paso, El Paso County, Texas.

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3G.

***R E S O L U T I O N**

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, Envirosolve, Inc. ("Assignor") and Stericycle Specialty Waste Solutions, Inc. ("Assignee") with respect to the City of El Paso Contract No. 2008-128; and

THAT the Purchasing Manager, Department of Financial Services, is authorized to notify Stericycle Specialty Waste Solutions, Inc. that the City is exercising the option to extend Contract No. 2008-128 for Household Hazardous Waste Disposal Services for an additional two years beginning June 17, 2011 and ending June 16, 2013.

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3H.

R E S O L U T I O N

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

That the City Manager be authorized to send notice to Murray, Montgomery and O'Donnell of the City's intent to exercise its option to extend the Professional Services Agreement dated March 30, 2010 for one additional year commencing September 1, 2011 and terminating on August 31, 2012.

Mayor Cook and Representatives Byrd, Acosta, Niland, and Ortega, commented.

Ms. Sylvia Firth, Senior Assistant City Attorney/Intergovernmental Affairs, commented.

1ST MOTION

*Motion made, seconded, and unanimously carried to **MOVE TO REGULAR**.

2ND AND FINAL MOTION

Motion made by Representative Byrd, seconded by Representative Niland, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Holguin

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3I. MAYOR'S OFFICE/GOVERNMENTAL AFFAIRS

*Motion made, seconded, and unanimously carried to **DELETE** a Resolution authorizing the City Manager to send notice to Focused Advocacy of the City's intent to exercise its option to extend the Professional Services Agreement dated October 12, 2010 for one additional year commencing October 15, 2011 and terminating on October 14, 2012.

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4. BOARD RE-APPOINTMENT

*Motion made, seconded, and unanimously carried to **RE-APPOINT** Elma Carreto to the City Plan Commission by Mayor John F. Cook.

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5A. REQUEST TO ISSUE PURCHASE ORDERS

*Motion made by, seconded by, and unanimously carried to **AUTHORIZE** the Purchasing Manager for Financial Services, Purchasing Division to issue a Purchase Order to EC America Inc. and NetDirect Systems, LLC, contractors under the U.S. General Services Administration's (G.S.A.) Contract Nos. GS-35F-0511T and GS-35F-0697N respectively, for a Riverbed Cascade Appliance for implementation services to install and configure the Cascade Appliance. The City has made the determination that purchasing from this cooperative offers the most cost-effective pricing.

Department: Information Technology
Award to: Vendor 1 EC America, Inc.
McLean, VA
Amount: \$240,767.74

Award to: Vendor 2 NetDirect Systems, LLC
Apex, NC
Amount: \$ 58,500

Total Estimated Award: \$299,267.74
Funding Source: Certificate of Obligations FY 12-13 CIP Plan
Accounting No.: 14400500-508010- 27051 - Project No. PCP12IT01
Reference No.: 2011-307

These are Cooperative, unit price contracts.

Mayor Cook and Representative Byrd commented.

The following City Staff members commented:

1. Ms. Joyce Wilson, City Manager
2. Mr. Bruce Collins, Purchasing Manager
3. Mr. Miguel Gamino, Director of Information Technology

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5B. REQUEST TO ISSUE PURCHASE ORDERS

*Motion made by, seconded by, and unanimously carried to **AUTHORIZE** the City Manager to execute an Interlocal Agreement by and between the City of El Paso, Texas and Ysleta Independent School District (YISD), whereby both entities agree to combine their efforts, from time to time, for the purchase of goods and services.

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6A. BEST VALUE PROCUREMENTS

*Motion made, seconded, and unanimously carried to **AWARD** Solicitation No. 2011-223 (Mobile Specialty Technology Vehicle) to Farber Specialty Vehicles, Inc. for an initial term estimated award of \$345,031.

Department:	Libraries
Award to:	Farber Specialty Vehicles, Inc. Reynoldsburg, OH
Items:	All
Option:	None
Total Estimated Award:	\$345,031
Account No.:	53150073 – 508006 – 07079 – Grant No. 48-42-B10570
Funding Source:	ARRA BTOP Virtual Village – Vehicular Equipment

This is a Best Value, unit price contract.

The cost under this requirements contract is only an estimated minimum value. The actual cost of this contract may be higher or lower than the total estimated minimum value and will be the sum total at the end of the contract term, so long as increased funds are appropriated in the budget.

The Financial Services - Purchasing Division and Libraries recommend award as indicated to Farber Specialty Vehicles, Inc., the bidder offering the best value bid.

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6B. BEST VALUE PROCUREMENTS

*Motion made, seconded, and unanimously carried to **AWARD** Solicitation No. 2011-248 for the South El Paso Senior Center Park Improvements to Martinez Irrigation and Landscapes, Inc. for a total estimated amount of \$84,122.

Department:	Engineering and Construction Management
Award to:	Martinez Irrigation and Landscapes, Inc.
Base Bid:	\$84,122
Total Estimated Completion:	\$84,122
Funding Source:	Community Development Block Grant (CDBG) 36 th Year

It is requested that the City Manager of the City of El Paso be authorized to sign any contracts or other documents required to effectuate this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

This is a low bid, unit-price contract. The Engineering and Construction Management Department recommends award as indicated to Martinez Irrigation and Landscapes, Inc. the lowest responsible, responsive bidder.

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7. BID

*Motion made, seconded, and unanimously carried to **AWARD** Solicitation No. 2011-267 (Aluminum Sign Blanks [Re-Bid]) to Vulcan, Inc. for an initial term estimated award of \$53,926.70 and to Mandel Metals, Inc. for an initial term estimated award of \$60,250.

Department: Department of Transportation
Award to: Vulcan, Inc.
Foley, AL
Items: Items 1 to 10
Initial Term: 2 years
Option: None
Annual Estimated Award: \$53,926.70
Initial Term Estimated Award: \$107,853.40 (2 years)
Total Estimated Award: \$107,853.40 (2 years)

Award to: Mandel Metals, Inc.
Franklin Park, IL
Items: Item 11
Initial Term: 2 years
Option: None
Annual Estimated Award: \$60,250
Initial Term Estimated Award: \$120,500 (2 years)
Total Estimated Award: \$120,500 (2 years)
Account No.: 32010287 – 503122 – 01101
Funding Source: General Fund – Maintenance Supplies/Parts

This is a low bid, unit price contract.

The cost under this requirements contract is only an estimated minimum value. The actual cost of this contract may be higher or lower than the total estimated minimum value and will be the sum total at the end of the contract term, so long as increased funds are appropriated in the budget.

The Financial Services - Purchasing Division and Department of Transportation recommend award as indicated to Vulcan, Inc., the lowest responsive, responsible bidder for items 1 to 10 and to Mandel Metals, Inc., the lowest responsive, responsible bidder for item 11.

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8. INTRODUCTIONS

Motion made by Representative Ortega, seconded by Representative Byrd, and unanimously carried that the following Ordinances, having been introduced pursuant to Section 3.9 of the El Paso City Charter, be **ADVERTISED** for public hearing:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Holguin

8A. An Ordinance granting a Special Privilege License to United Bank of El Paso Del Norte permitting the encroachment of seven canopies and 12 façade encroachments totaling 372.0 square feet over and along portions of City right-of-way located on Main Drive Kansas Street, and Campbell Avenue adjacent to 401 E. Main Drive.

8B. An Ordinance establishing deadlines and procedures for placing matters on the agenda for City Council Meetings and repealing Ordinance No. 16086.

PUBLIC HEARING WILL BE HELD ON AUGUST 2, 2011, FOR ITEMS 8A – 8B

8C. An Ordinance authorizing the City Manager to sign a Special Warranty Deed conveying to the County of El Paso, land totaling 3.2564 acres of land consisting of a portion of Tracts 6-C and 6-B-1, Block 18, Upper Valley Surveys, El Paso County Texas as shown on a map of Block 18 by JW Carter and dated April 1930, and also being a portion of that parcel recorded in condemnation suit docket 15273 filed December 29, 1950, El Paso County District Clerk's Record. Said land located near Bosque and Campos Roads, in Northwest El Paso County.

PUBLIC HEARING WILL BE HELD ON AUGUST 9, 2011, FOR ITEM 8C

8D. An Ordinance amending Title 20 (Zoning), Appendix B (Table of Density and Dimensional Standards), Subpart B (Lot and Dwelling size), of the El Paso City Code to revise the density regulations for apartments in the C-5 (Central Business District). The penalty is as provided for in Chapter 20.24 of The El Paso City Code.

PUBLIC HEARING WILL BE HELD ON AUGUST 16, 2011, FOR ITEM 8D

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9. GENERAL SERVICES

Motion made by Representative Ortega, seconded by Representative Byrd, and unanimously carried to **AUTHORIZE AS REVISED** the Purchasing Manager for Financial Services, Purchasing Division to issue a Purchase Order to Goodyear Tire and Rubber Company's authorized local distributor as required under The Cooperative Purchasing Network (TCPN) Contract No. R4937 (Automotive Tires) for DuraSeal Technology Tires & Recaps. Goodyear Tire and Rubber Company's authorized local distributor through the TCPN Contract is Wingfoot Commercial Tire System. The City has made the determination that purchasing from this cooperative offers the most cost-effective pricing.

The participation by the City of El Paso in The Cooperative Purchasing Network (TCPN), State Contracts Program was approved by Mayor and City Council on March 27, 2007.

AYES: Representatives Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Lilly and Holguin

Department: General Services
Award to: Goodyear Tire and Rubber Company
Akron, OH
Annual Estimated Amount: \$798,633.20
Total Estimated Award: \$798,633.20 (for approximately 1,218 tires & recaps as needed)
Funding Source: Gen Services, Intl Serv Fund – Inventory Purch-Mat & Supplies
Account No.: 37370510 – 503121 – 45202
Reference No.: 2011-106

This is a Cooperative, unit price contract.

Mr. Bruce Collins, Purchasing Manager, commented

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10. PARKS AND RECREATION

Motion made by Representative Ortega, seconded by Representative Noe, and unanimously carried to **AWARD** Solicitation No. 2011-253 (Sports Officials [Baseball, Basketball, Football, Hockey, Soccer and Volleyball]) to El Paso Umpires Association (TASO) for an initial term estimated award of \$620,562.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland
NAYS: None
NOT PRESENT FOR THE VOTE: Representative Holguin

Department: Parks and Recreation
Award to: El Paso Umpires Association (TASO)
El Paso, TX
Items: All
Initial Term: 3 years
Option: 2 years
Annual Estimated Award: \$ 206,854
Initial Term Estimated Award: \$ 620,562 (3 years)
Total Estimated Award: \$1,034,270 (5 years)
Account No.: 51010367 – 502211 – 01101
Funding Source: FY11 Parks and Recreation Operating Budget

This is a Best Value, unit price contract.

The cost under this unit price contract is only an estimated minimum value. The actual cost of this contract may be higher or lower than the total estimated minimum value and will be the sum total at the end of the contract term, so long as increased funds are appropriated in the budget.

The Financial Services - Purchasing Division and Parks and Recreation recommend award as indicated to El Paso Umpires Association (TASO) the bidder offering the best value bid.

Representatives Ortega, Byrd, and Robinson, commented.

The following City Staff members commented:

- 1. Ms. Joyce Wilson, City Manager

2. Mr. Bruce Collins, Purchasing Manager
3. Ms. Paula Powell, Sports Manager

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ITEMS 11A. AND 11B. TAKEN TOGETHER

11A. ENGINEERING AND CONSTRUCTION MANAGEMENT

WHEREAS, on May 31, 2011, the City awarded Solicitation No. 2011-211 to M Lee Corp. of El Paso, Texas, for the construction of Clint Cell Lining Cells 7-10 (Re-Bid) for the Environmental Services Department; and

WHEREAS, the City Council finds that M Lee Corp. is in default of the provisions of the Contract because M Lee Corp. has failed to provide a Performance and Payment Bond in conformance with the requirements of the General Conditions of Contract (Section 5.13) and the Information for Bidders (page 1-B-5, paragraph 10) as set forth in the Solicitation and on the forms provided on page II-B-1 of the Solicitation; and

WHEREAS, pursuant to Section 6.9.1 of the General Conditions of Contract (Right of Owner to Terminate Contract) as set forth in the Solicitation, the City is authorized to terminate the Contract in the event of default; and

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

That the City Engineer is authorized to notify M Lee Corp. of El Paso, Texas, that the City is terminating Contract No. 2011-211 for default pursuant to the provisions of Section 6.9.1 of the General Conditions of the Contract, due to contractor's failure to provide Performance and Payment Bond forms that meet the contract requirements and that the termination shall be effective as of July 26, 2011.

11B. ENGINEERING AND CONSTRUCTION MANAGEMENT

WHEREAS, adequate landfill space is necessary for the safe and proper operation of the City of El Paso's Clint Landfill; and

WHEREAS, the Clint Landfill will be out of landfill space by February, 2012; and

WHEREAS, the construction time for the lining of four additional cells (36 acres) (the "Project") that need to be operational by February, 2012, is two hundred ten (210) consecutive calendar days; and

WHEREAS, immediate action is needed to award a construction contract to expand the capacity of the Clint Landfill by February, 2012; and

WHEREAS, J.A.R. Concrete, Inc. dba J.A.R. Construction, Inc. has proposed to construct the Project at the Clint Landfill for an amount not to exceed \$3,849,497.65 for the services; and

WHEREAS, the Texas Local Government Code exempts from the competitive bidding requirements a procurement necessary to preserve and protect the public health or safety of the municipality's residents; and

WHEREAS, the construction of the Project is necessary to preserve and protect the public health of the citizen's of El Paso.

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

THAT the procurement for the construction of Clint Cell Lining, Cells 7-10 is exempt under state law for the preservation and protection of the public health of the City’s residents, and that the City Engineer be authorized to enter into an agreement with J.A.R. Concrete, Inc. dba J.A.R. Construction, Inc. in an amount not to exceed \$3,849,497.65 for construction of the Clint Cell Lining, Cells 7-10.

Mayor Cook and Representatives Ortega, Byrd, Niland, Noe, Acosta, Lilly, and Robinson, commented.

The following City Staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. R. Alan Shubert, City Engineer
- 3. Ms. Ellen Smyth, Director of Environmental Services
- 4. Mr. Charlie McNabb, City Attorney, gave legal advice.

Motion made by Representative Acosta, seconded by Representative Byrd, and unanimously carried to **APPROVE** the Resolutions.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland
 NAYS: None
 NOT PRESENT FOR THE VOTE: Representative Holguin

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12A..

ORDINANCE 17606

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST11-00006, TO ALLOW FOR INFILL DEVELOPMENT AND A PARKING REDUCTION ON THE PROPERTY DESCRIBED AS ALL OF THE NORTH ½ OF LOTS 14, 15, AND 16, BLOCK 57, SUPPLEMENTAL MAP NO. 1, EAST EL PASO ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.04.320 OF THE EL PASO CITY CODE. THE PENALTY BEING AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

Mr. Mathew McElroy, Deputy Director, Planning and Economic Development, presented a PowerPoint presentation, (copy on file in City Clerk’s office).

Mayor Cook and Representatives Niland, Byrd, and Ortega, commented.

Mr. Larry Romero, President Five Points Development Association, commented.

Mr. and Mrs. Leopoldo Duran, Owners, L & J Restaurant, commented.

Motion duly made by Representative Niland, seconded by Representative Byrd, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland
 NAYS: None
 NOT PRESENT FOR THE VOTE: Representative Holguin

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED**.

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ITEMS 12B, 15A. AND 15B. TAKEN TOGETHER

12B.

ORDINANCE 17607

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF ALL OF TRACT 5, BLOCK 14, UPPER VALLEY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-2 (RESIDENTIAL) TO G-MU (GENERAL-MIXED USE). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

Mr. Mathew McElroy, Deputy Director, Planning and Economic Development, presented a PowerPoint presentation, (copy on file in City Clerk’s office).

Mayor Cook and Representatives Ortega, Byrd, Robinson, Acosta, Holguin, Niland, and Lilly, commented.

The following City Staff members commented:

- 1. Mr. Ted Marquez, Deputy Director of Department of Transportation
- 2. Ms. Lupe Cuellar, Assistant City Attorney, gave legal advice
- 3. Mr. Charlie McNabb, City Attorney, gave legal advice

The following members of the public commented.

- 1. Ms. Mary Francis Keisling
- 2. Ms. Christine Goodwin
- 3. Ms. Sue U. Morce
- 4. Mr. Jim Maxfield, presented a PowerPoint presentation, (copy on file in City Clerk’s office).
- 5. Ms. Laure Searls
- 6. Mr. Billy Crossland
- 7. Ms. Alma Ramsey read a statement from Mr. Keith Deputy
- 8. Mr. Scott Winton, Winton Group, applicant
- 9. Ms. Lisa Turner

Motion duly made by Mayor Pro Tempore Lilly, seconded by Representative Niland, that the Ordinance be **ADOPTED AS REVISED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Robinson, Noe, Holguin, Ortega, and Niland
NAYS: Representative Acosta

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED AS REVISED**.

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12C. PLANNING AND ECONOMIC DEVELOPMENT

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF ALL OF LOTS 16, 17, 18 AND 19, BLOCK 2, HUGHES SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY,**

TEXAS FROM R-5 (RESIDENTIAL) TO S-D (SPECIAL DEVELOPMENT). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

Mr. Mathew McElroy, Deputy Director, Planning and Economic Development, presented a PowerPoint presentation, (copy on file in City Clerk’s office).

Representative Acosta commented.

Mr. Fred Borrego, President of San Juan Neighborhood Improvement Association.

1ST MOTION

Motion duly made by Representative Acosta, seconded by Representative Byrd, that the Ordinance be **DENIED**. Whereupon the Mayor ordered that a vote be taken on the denial of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Ortega, and Niland

NAYS: Representative Noe

NOT PRESENT FOR THE VOTE: Representative Holguin

Whereupon the Mayor ordered that, the vote having been cast in denial of the Ordinance, the same be and the same are hereby **DENIED**.

2ND MOTION

Motion made by Representative Ortega, seconded by Representative Byrd, and unanimously carried to **RECONSIDER** the item.

3RD AND FINAL MOTION

Motion duly made by Representative Acosta, seconded by Representative Byrd, that the Ordinance be **DENIED**. Whereupon the Mayor ordered that a vote be taken on the denial of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Holguin

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12D. PLANNING AND ECONOMIC DEVELOPMENT

Motion duly made by Representative Ortega, seconded by Representative Lilly, to **POSTPONE** one week the public hearing on an Ordinance granting Special Permit No. PZST11-00005, to allow for infill development for lot width and lot size reduction on the property described as Lot 39, Block 1, Alexander Addition to Ysleta, City of El Paso, El Paso County, Texas, pursuant to Section 20.04.320 of the El Paso City Code. The penalty being as provided for in Chapter 20.24 of the El Paso City Code.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Holguin

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13.

ORDINANCE 17608

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 13 (STREETS SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.24 (CITY PARKS AND RECREATION AREAS), SECTION 13.24.050 (USE OF ATHLETIC FIELDS), TO BROADEN THE SCOPE TO INCLUDE OTHER TYPES OF ATHLETIC FIELDS AND TO ALLOW FOR DESIGNATION BY CITY COUNCIL OF APPLICABLE ATHLETIC FIELDS, AND TO CREATE SECTION 13.24.210 (ENFORCEMENT). THE PENALTY AS PROVIDED IN CITY CODE SECTION 13.24.050(C) OF THE CITY CODE.**

Mayor Cook and Representatives Robinson, Ortega, and Noe, commented.

Ms. Nanette Smejkal, Director of Parks and Recreation, commented.

Motion duly made by Representative Robinson, seconded by Representative Byrd, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega, and Niland
NAYS: None

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED**.

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14. MAYOR AND COUNCIL

Motion made by Representative Byrd, seconded by Representative Acosta, and unanimously carried to **APPOINT** Carl Robinson to the Transportation Policy Board of the Metropolitan Planning Organization to fill the seat for an elected official vacated by Beto O'Rourke.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega, and Niland
NAYS: None

Mayor Cook and Representatives Ortega, Byrd, Niland, and Acosta, commented.

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ITEMS 15A, 15B AND 12B TAKEN TOGETHER

15A.

RESOLUTION

That the City Manager be authorized to sign an amendment to the May 8, 2007, Development Agreement by and between the City of El Paso, the El Paso Water Utilities-Public Service Board and Rio Valley LLC to change the development to G-MU (General Mixed Use Development), to amend the term, and to change the park provisions.

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Acosta, and unanimously carried to **APPROVE AS REVISED** the Resolution.

15B. PLANNING AND ECONOMIC DEVELOPMENT

That the City Manager be authorized to sign an amendment to the January 23, 2007, Development Agreement by and between the City of El Paso, the El Paso Water Utilities-Public Service Board and El Paso Jamas, Ltd. and B.A.R. Construction Inc. to extend the term of the Agreement and to amend the park provisions contained in the Agreement.

Mayor Cook and Representative Byrd, Ortega, commented.

Mr. Mathew McElroy, Deputy Director, Planning and Economic Development, commented.

The following City Staff members commented:

- 1. Mr. Mathew McElroy, Deputy Director, Planning and Economic Development
- 2. Ms. Lupe Cuellar, Assistant City Attorney, gave legal advice
- 3. Mr. Charlie McNabb, City Attorney, gave legal advice

1ST MOTION

Motion made by Representative Acosta, seconded by Representative Robinson, and unanimously carried to **POSTPONE** one week the Resolution.

2ND MOTION

Motion made by Representative Ortega, seconded by Representative Byrd, and unanimously carried to **RECONSIDER** the item.

3RD AND FINAL MOTION

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Niland, and carried to **APPROVE AS REVISED** the Resolution.

AYES: Representatives Lilly, Acosta, Robinson, Noe, Holguin, Ortega, and Niland

NAYS: Representative Byrd

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16. CITY MANAGER

Discussion and action on Quarterly Financial Report: 3rd Quarter Financial Report for Fiscal Year 2011. **(All Districts)**

Mr. William Studer, Deputy City Manager, presented a PowerPoint presentation, (copy on file in City Clerk's office).

Mayor Cook and Representatives Acosta, Byrd, and Niland, commented.

NO ACTION was taken on this item.

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Motion made by Representative Acosta, seconded by Representative Robinson, and unanimously carried to **ADJOURN** this meeting at 1:21 p.m.
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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk