

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

DEPARTMENT: City Development Department

AGENDA DATE: August 27, 2013

CONTACT PERSON/PHONE NUMBER: Marty Howell – 915-383-8217

DISTRICT(S) AFFECTED: 8

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.

Discussion and Action on the Fourth Amended Interlocal Agreement between the City of El Paso, and the Downtown Management District (DMD). A Texas Municipal Management District, organized under Texas Local Government Code Chapter 375. To Increase the funding provided by the City, for supplemental sanitation services and to remove the requirements that the City pay the compensation and benefit costs associated with the DMD's Executive Director.

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 February 1, 2011, the Parties entered into an Interlocal Agreement implementing activities to preserve, maintain, and enhance the economic health and vitality of the downtown El Paso area through public outreach development, downtown marketing services, and supplemental sanitation services, with the governmental purpose of stimulating commercial development and business activity in the downtown area. The Fourth amendment of the Interlocal amends the original agreement to increase the City's funding of supplemental sanitation services and to remove the requirement that the City pay the compensation and benefit costs associated with the DMD's Executive Director. In consideration of the supplemental activities, the City agreed to increase payment to the DMD from \$500,000 to \$740,000.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

The *First Interlocal Agreement* was passed on February 1, 2011 to allow the DMD to implement activities to preserve, maintain, and enhance the economic health and vitality of the Downtown El Paso area through public service outreach, downtown marketing services, and supplemental sanitation services, with the government purpose of stimulating commercial development and business activity in the downtown area.

The *Second Interlocal Agreement* was passed on February 18, 2013 to allow the DMD to manage the City's Downtown wayfinding program and perform hardware upgrades needed on City assets needed for the placement of marketing materials. The DMD also assumed responsibility of maintenance for the materials. In consideration of the supplemental activities, the City agreed to increase payment to the DMD from \$350,000 to \$500,000.

The *Third Interlocal Agreement* was passed on June 4, 2013 to allow the DMD to extend the physical boundaries and add new sign typology to the Downtown wayfinding program (already described in the Second Amendment of the Interlocal), in accordance with "The City of El Paso Downtown Pedestrian Wayfinding Plan" and the Downtown 2015 Plan. In addition, the amendment allows the DMD to secure fabrication of the wayfinding elements prescribed in the City's Downtown Wayfinding Plan. The amendment also established a fee per sign payment amount for wayfinding elements but did not change the overall payment agreement already set in the Second Amendment of the Interlocal Agreement.

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?

Environmental Services

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

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

CITY CLERK DEPT.
CITY CLERK DEPT.
2013 AUG 20 PM 1:56
2013 AUG 20 PM 1:56

RESOLUTION

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

That the Mayor is hereby authorized to sign, on behalf of the City of El Paso, an Amendment to Interlocal Agreement between the City of El Paso (the "City") and the El Paso Downtown Management District (the "DMD") in order to increase the funding for sanitation services provided by the DMD, subject to the terms and conditions in the Amendment to the Interlocal Agreement.

ADOPTED this ____ day of _____ 2013.

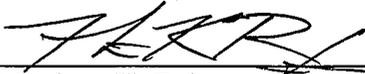
CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:

Richarda D. Momsen
City Clerk

APPROVED AS TO FORM



Matthew K. Behrens
Assistant City Attorney

APPROVED AS TO CONTENT



Mathew McElroy,
Director City Development

STATE OF TEXAS)
)
COUNTY OF EL PASO)

FOURTH AMENDED INTERLOCAL AGREEMENT

This Interlocal Agreement, as amended, is entered into on the _____ day of _____, 2013, by and between the CITY OF EL PASO, a Texas home-rule municipal corporation (“the City”) and the El Paso Downtown Management District (“DMD”), a Texas Municipal Management District, organized under Texas Local Government Code Chapter 375. The City and the DMD may be referred to in this Amendment individually as “Party” and collectively as the “Parties.”

The Parties hereby agree to amend their current Interlocal Agreement dated February 1, 2011 (the “Interlocal”), subject to the following terms and conditions. The Parties agree that the additional terms and conditions will apply to the Interlocal unless further modified or amended by the Parties.

WHEREAS, on or about February 1, 2011, the Parties entered into an Interlocal Agreement implementing activities to preserve, maintain, and enhance the economic health and vitality of the downtown El Paso area through public outreach development, downtown marketing services, and supplemental sanitation services, with the governmental purpose of stimulating commercial development and business activity in the downtown area; and

WHEREAS, the Parties now desire to amend the agreement to increase the City’s funding of supplemental sanitation services and to remove the requirement that the City pay the compensation and benefit costs associated with the DMD’s Executive Director.

NOW THEREFORE, KNOW ALL BY THESE PRESENT THAT :

For and on behalf of the general public good and the mutual covenants and promises hereinafter set forth in this Agreement, the Parties agree as follows:

ARTICLE 1. BACKGROUND AND PURPOSE

Section 1.01 Authorization

This amendment is executed by the Parties in accordance with Section 9.6 of the Interlocal Agreement.

Section 1.02 Purpose

The Parties execute this Amendment for the following purposes:

1.02.1 To provide additional funding for supplemental sanitation services in downtown El Paso.

Section 1.03 *Effective date.*

Unless otherwise specified, these additions to the Interlocal agreed to in this Amendment shall be effective as of September 1, 2013.

ARTICLE 2. AMENDMENT TO THE “ALLOCATION OF EXPENSES AND CONTRIBUTION FOR SERVICES”

Section 2.01 *Addition to Consideration*

Paragraphs 3.1 through 3.1.3 of Section 3.0 (Allocation of Expenses and Contribution for Services) are deleted. The remaining sections are renumbered accordingly, and Section 3.1 (formerly Section 3.2) of the Interlocal now reads as follows:

3.1 In consideration of the DMD performing the supplemental sanitation services as set forth in Section 2.2.3, the City hereby agrees to pay an amount not to exceed Seven Hundred Forty Thousand and No/100th Dollars (\$740,000.00), representing no more than fifty percent (50%) of the costs of the performance of said services under the term of this Agreement (“City’s proportionate share”), which will be paid out according to the following payment schedule:

(A) Within thirty (30) days of the execution of this Agreement by both parties, the City shall pay the sum of One Hundred Thousand and No/100 Dollars (\$100,000.00);

(B) Thereafter on February 1, 2012, the City shall pay the sum of One Hundred Thousand and No/100 Dollars (\$100,000.00);

(C) Thereafter on February 1, 2013, the City shall pay the sum of One Hundred Thousand and No/100 Dollars (\$100,000.00);

(D) Thereafter on February 1, 2014, the City shall pay the sum of Two Hundred Twenty Thousand and No/100 Dollars (\$220,000.00);

(E) Thereafter on February 1, 2015, the City shall pay the sum of Two Hundred Twenty Thousand and No/100 Dollars (\$220,000.00).

ARTICE 3. ADDITON TO “TERM AND TERMINATION”

Section 3.01 *Addition to Termination*

The following is added as 4.2.3.2 to Section 4.2.3 (Termination Without Cause) of the Interlocal:

4.2.3.2 The Agreement set forth in this Amendment to the Interlocal dated February 1, 2011, may be terminated by either party for any reason, or for no reason whatsoever, upon sixty (60) days written notice prior to the anniversary date of execution of this Amendment, and such

termination of this Amendment shall not affect or cause the termination of the Interlocal Agreement dated February 1, 2011, or any previous Amendments to the Interlocal.

ARTICLE 4. REPRESENTATIONS AND AGREEMENT OF THE PARTIES

Section 4.01 *Continuing effect of the Interlocal Agreement.*

The Parties contract and agree that the terms of the Interlocal Agreement dated February 1, 2011, shall remain in full force and effect.

Section 4.02 *Incorporation of the terms of the Amendment.*

By signing this Amendment, the Parties expressly understand and agree that this Amendment is hereby made a part of the Interlocal Agreement dated February 1, 2011, as though it were set out verbatim in the Interlocal.

IN WITNESS HEROF, the City and DMD have each caused this amendment to be signed and delivered by its duly authorized representative.

(SIGNATURES BEGIN ON NEXT PAGE)

CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Matthew K. Behrens
Assistant City Attorney

Mathew McElroy,
Director City Development

EL PASO DOWNTOWN
MANAGEMENT DISTRICT ("DMD")

By: _____
Robert S. Ayoub, President
Board of Directors

ATTEST:

By: _____
Michael D. McQueen, Secretary