

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

DEPARTMENT: STREET
AGENDA DATE: September 29, 2009
CONTACT PERSON/PHONE: DARYL COLE, 621-6750
TERRENCE FREIBURG, PURCHASING MANAGER: 541-4313
DISTRICT(S) AFFECTED: All

SUBJECT: APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Termination for default of 2008-195 Magnesium Chloride Dust Control Agent.

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?

The Street Department was informed about the untimely death of the owner of Texas Soil Control. Purchasing called the phone numbers listed in the bid. All phone numbers were disconnected. Purchasing contacted the subcontractor listed in the bid. The subcontractor indicated that none of the heirs were interested in continuing the company. Purchasing mailed a certified letter to Texas Soil Control which was returned as undeliverable. Once this contract is terminated, Purchasing will solicit bids for this material.

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

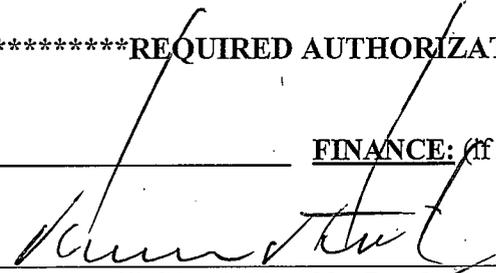
N/A.

AMOUNT AND SOURCE OF FUNDING: How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

No change to funding.

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

LEGAL: (if required) _____ **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:** _____

PROJECT FORM

FINANCIAL SERVICES DEPARTMENT, PURCHASING DIVISION

DATE: September 8, 2009
TO: Municipal Clerk
FROM: Terrence Freiburg, ext. 4313
Leticia Rivera
Procurement Analyst, ext. 4234

Please place the following item on the CONSENT Agenda for the Council Meeting of Tuesday, September 29, 2009.

Item should read as follows:

The Purchasing Manager, Financial Services- Purchasing Division, requests that Mayor and Council terminate Contract No. 2008-195 for default pursuant to the provisions and requirements of Section C, Clause 18B of the Contract Clauses and that the termination shall be effective as of September 29, 2009. The vendor will be notified.

Department: Street

Municipal Clerk's Use

ITEM NO. _____

cc: BID FILE

RESOLUTION

WHEREAS, the City awarded Contract No. 2008-195 to Texas Soil Control Inc. (the "Contractor") on June 10, 2008 for Magnesium Chloride Dust Control Agent (the "Contract"); and

WHEREAS, under the Contract, Section C, Clause 17 (Right to Assurance), the City may demand that the Contractor assure the City of Contractor's intent to continue performance and treat the failure to provide such assurance as a basis for termination of the Contract; and

WHEREAS, Texas Soil Control ceased performance of its Contract and, following the City's letter requesting confirmation that it would continue performance of the Contract, Contractor failed to respond that it would continue to perform the services under the Contract; and

WHEREAS, the Purchasing Manager of the City of El Paso recommends that City Council terminate said Contract for default pursuant to the provisions of the Contract.

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

That the Purchasing Manager is authorized to notify Texas Soil Control that the City is terminating Contract No. 2008-195 for default pursuant to the provisions and requirements of Section C, Clauses 17 and 18B of the Contract because the contractor has failed to provide assurance that they would continue to perform services under the contract and that the termination shall be effective as of September 29, 2009.

PASSED AND APPROVED this 29th day of September, 2009.

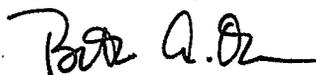
THE CITY OF EL PASO

John Cook
Mayor

ATTEST:

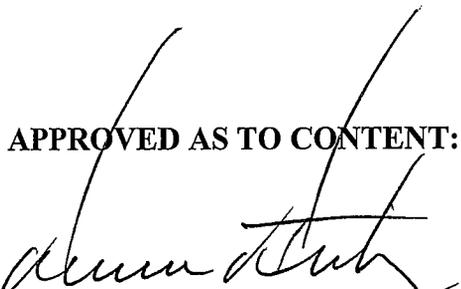
Richarda D. Momsen
Municipal Clerk

APPROVED AS TO FORM:



Bertha A. Ontiveros
Assistant City Attorney

APPROVED AS TO CONTENT:



Terrence Freiburg
Purchasing Manager, Financial Services