

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

**DEPARTMENT:** GENERAL SERVICES  
**AGENDA DATE:** OCTOBER 13, 2009  
**CONTACT PERSON/PHONE:** STUART ED, 621-6822  
TERRY 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.

That the City Manager be authorized to sign a Consent to Assignment of the contract by and between the City of El Paso, Nunn Waste Management Company ("Assignor") and Fuels, LLC ("Assignee") with respect to the City of El Paso Contract No. 2009-054.

**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 or after February 10, 2009, the City entered into Contract No. 2009-054 with Nunn Waste Management Company. Nunn Waste Management Company was purchased by Fuels, LLC. Assignee agrees to assume and perform all duties, obligations and responsibilities under Contract No. 2009-054.

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

Common Council action when vendor changes ownership/name and vendor agrees to assume and perform all duties, obligations and responsibilities of a contract.

**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:** \_\_\_\_\_

**RESOLUTION**

**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, Nunn Waste Management Company ("Assignor") and Fuels LLC ("Assignee") with respect to the City of El Paso Contract No. 2009-054.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

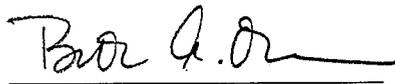
**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook  
Mayor

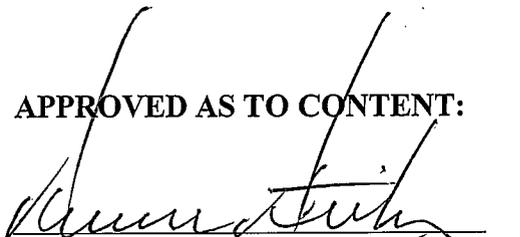
**ATTEST:**

\_\_\_\_\_  
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

STATE OF TEXAS    )  
                                  )  
COUNTY OF EL PASO    )

**CONSENT TO ASSIGNMENT**

This Consent to Assignment is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the City of El Paso (the "City"), Nunn Waste Management Company ("Assignor") and Fuels, LLC ("Assignee").

**WHEREAS**, on or after February 10, 2009, the City entered into Contract No. 2009-054 (the "Contract") with Assignor and fully incorporated herein by reference;

**WHEREAS**, pursuant to the Contract, the Assignor was to provide buyback of used motor oil and filters from the City;

**WHEREAS**, after entering into the Contract, the assets of Assignor were sold to Assignee;

**WHEREAS**, the Contract provides that it is not assignable without the consent of the City;

**WHEREAS**, Assignor has requested that the City approve an assignment of the Contract to Assignee;

**WHEREAS**, Assignee has agreed to be responsible for all duties and obligations under the Contract; and

**WHEREAS**, the City agrees to the assignment of all rights, duties and obligations encompassed in the Contract to Assignee.

**NOW, THEREFORE, IT IS HEREBY AGREED as follows:**

1. The City consents to the assignment of the rights, duties and obligations under Contract No. 2009-054 to Assignee.
2. Assignee agrees to assume and perform all duties, obligations and responsibilities under Contract 2009-054.
3. All terms and conditions of Contract No. 2009-054 shall remain in full force and effect.

4. Assignee agrees to indemnify, defend and hold harmless the City from and against any and all claims, demands, causes of action, court costs, expenses, and attorney's fees which are connected with or arise from the assignment of this Contract or the City's acceptance and recognition of the assignment of Contract No. 2009-054.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**THE CITY OF EL PASO**

\_\_\_\_\_  
Joyce A. Wilson  
City Manager

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Terrence Freiburg  
Purchasing Manager, Financial Services

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Bertha A. Ontiveros  
Assistant City Attorney

**ASSIGNOR:**  
Nunn Waste Management Company

\_\_\_\_\_  
NAME: Vickie Nunn  
TITLE: President

**ASSIGNEE:**  
Fuels, LLC

\_\_\_\_\_  
NAME: Michelle A. Tucker  
TITLE: Operations Manager