

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

CITY CLERK DEPT.
06 OCT 26 AM 4:49

DEPARTMENT: Financial Services

AGENDA DATE: 10/31/06

CONTACT PERSON/PHONE: Carmen Arrieta-Candelaria (541-4293)

DISTRICT(S) AFFECTED: Citywide

SUBJECT:

Resolution authorizing the City Manager to sign an Interlocal Agreement between the City of El Paso and the Central Appraisal District ("CAD") to allow the CAD to utilize the City's auctioning services for its surplus vehicles.

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 attached resolution authorizes the City Manager to enter into an agreement with the CAD to allow the CAD to utilize the City's auctioning process to sell its surplus vehicles. The City contracts with an outside vendor to auction its vehicles. The current contract with Larry Otten Auctioneers was approved by City Council with a contract term of March 1, 2003 through February 28, 2007. The City will utilize this contract and charge an administrative fee to the CAD for its services.

PRIOR COUNCIL ACTION

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

Council approved Solicitation No 2002-074 Auctioneering Servies for a contract term of March 1, 2003, through February 28, 2007.

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?

The CAD agrees to pay auctioneer fees according to the current contract held by the City as well as an administrative fee.

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

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

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

DEPARTMENT HEAD: Carmen Arrieta-Candelaria
(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 is hereby authorized to sign an interlocal agreement by and between the City of El Paso (the "**City**") and the El Paso Central Appraisal District (the "**CAD**") whereby the City shall cause the CAD's surplus vehicles to be auctioned.

ADOPTED this _____ day of _____, 2006.

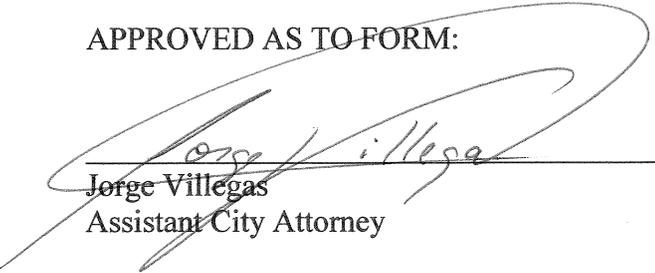
CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
Municipal Clerk

APPROVED AS TO FORM:



Jorge Villegas
Assistant City Attorney

APPROVED AS TO CONTENT:



Carmen Arrieta-Candelaria
Chief Financial Officer

STATE OF TEXAS)
)
)
COUNTY OF EL PASO)

**INTERLOCAL AGREEMENT BETWEEN
CITY OF EL PASO AND CENTRAL
APPRAISAL DISTRICT**

This interlocal agreement ("**Agreement**") entered into this _____ day of _____, 2006, by and between the City of El Paso, Texas, a home rule municipality (the "**City**"), and the El Paso Central Appraisal District (the "**CAD**").

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 March 1, 2002, the City entered into Contract No. 2002-074 with Larry Otten Auctioneers (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 CAD and the City desire to have the City sell the CAD'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. The CAD hereby agrees to deliver the Vehicles to the auction site, as designated by the City. At the time the Vehicles are delivered to the City for auction, the CAD shall also deliver each Vehicle's title, a signed "Application for Texas Title," and any other requisite document to effectuate the proper transfer of ownership of said vehicles to successful bidders.

Section 2. **LIABILITY**. The CAD 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 CAD shall pay a 2.25% auctioning fee based on the Vehicles' auction selling price, which shall be paid to the Auctioneers by the City pursuant to the Auction

Contract. Said auctioning fee may be increased or decreased to equal the auction fee which the City must under its auction contract in place during the time the Vehicles are auctioned and sold. In addition, the CAD hereby agrees to pay the City an administrative fee of 2.0% for the City's services regarding the auctioning of the CAD'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 October 31, 2006 to August 31, 2007. At the end of the initial term, this Agreement shall automatically renew for successive one-year terms.

Section 6. **TERMINATION.** The City or the CAD 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 CAD, 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 Manger
 2 Civic Center Plaza, 10th Floor
 El Paso, Texas 79901

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

 The City of El Paso
 Attn: Jeffrey Belles, General Services Director
 1059 Lafayette
 El Paso, Texas 79907

To the CAD: Central Appraisal District
 5801 Trowbridge Avenue
 El Paso, Texas 79901

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)

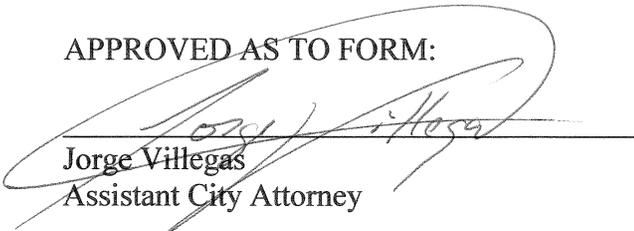
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CITY OF EL PASO AND CENTRAL
APPRAISAL DISTRICT**

Signature Page

CITY OF EL PASO

Joyce Wilson
City Manager

APPROVED AS TO FORM:



Jorge Villegas
Assistant City Attorney

APPROVED AS TO CONTENT:



Carmen Arrieta-Candelaria
Chief Financial Officer

APPROVED AS TO CONTENT:



Gonzalo Cedillos
Capital Assets Manager

Jeffrey Belles, Director
General Services

EL PASO CENTRAL APPRAISAL
DISTRICT

Name Printed: _____
Title: _____

APPROVED AS TO FORM:

Name Printed: _____
Attorney for Central Appraisal District

000158 01/17/08
CITY OF EL PASO