

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

DEPARTMENT: Environmental Services

AGENDA DATE: November 17, 2009

CONTACT PERSON NAME AND PHONE NUMBER: Ellen A. Smyth, P.E.,(915)
621-6719

DISTRICT(S) AFFECTED: 8

SUBJECT:

APPROVE a Termination of Interlocal Agreement with the Downtown Management District and the City of El Paso.

BACKGROUND / DISCUSSION:

The proposed Resolution is to terminate the Downtown Management District Agreement entered on December 16, 2008. The amendment is to adjust the payment to compensate and to terminate the contract. The DMD will pay the City of El Paso a sum of Forty Thousand and no/100 (\$40,000.00) for the four-month period ending December 31, 2009 and establishing December 31, 2009 as the termination date of the Interlocal Agreement.

PRIOR COUNCIL ACTION:

The original agreement was approved by Council on December 16, 2008.

AMOUNT AND SOURCE OF FUNDING:

BOARD / COMMISSION ACTION:

Enter appropriate comments or 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

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, a Termination of Interlocal Agreement between the City of El Paso (the “City”) and the El Paso Downtown Management District (the “DMD”), for the purpose of allowing the DMD to pay the City a \$40,000 lump sum payment for the four-month period ending January 31, 2010, and establishing January 31, 2010 as the termination date of the Interlocal Agreement dated December 16, 2008.

PASSED AND APPROVED this _____ day of _____, 2009.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda, Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:

Patricia D. Aduino, Deputy City Manager
Development & Infrastructure Services

STATE OF TEXAS
COUNTY OF EL PASO

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TERMINATION OF INTERLOCAL AGREEMENT

WHEREAS, on December 16, 2008 the City of El Paso, a Texas municipal corporation ("City"), and the El Paso Downtown Management District, a Texas Municipal Management District, organized under Texas Local Government Code Chapter 375 ("DMD") entered into an Interlocal Agreement (the "Interlocal") for the betterment of downtown El Paso and the specific purposes stated therein; and

WHEREAS, the Interlocal required a payment of \$180,000 to the City yearly by the DMD beginning on October 1, 2009, which amount required the DMD to raise its assessment rate to property owners within the DMD; and

WHEREAS, the Interlocal provided that if the DMD was unable to raise its assessment rate through the procedures required in Chapter 375 of the Local Government Code that the Interlocal would terminate as set forth in the Interlocal; and

WHEREAS, the DMD, being unable to raise its assessment rate by obtaining a Petition of 50% of its property owners, duly provided Notice of Termination under the Interlocal to the City on September 2, 2009, all in accordance with the terms of the Interlocal and with the required 120 days notice; and

WHEREAS, on August 27, 2009 the DMD Board authorized the payment of \$10,000 per month for 4 months as a pro rata share of Interlocal amount to cover City services through January 31, 2010, as calculated on page 2 attached; and

WHEREAS, the City wishes to accept that \$40,000 pro rata amount in consideration for continuing its existing services through January 31, 2010;

NOW THEREFORE IT IS AGREED BY THE PARTIES that:

1. The DMD will pay \$40,000 to the City as soon as practicable after the execution of this Termination of Interlocal Agreement.
2. The City will continue all current services under the Interlocal through midnight on January 31, 2010.
3. The Interlocal will terminate at midnight, January 31, 2010.

TO WITNESS WHICH THE FOLLOWING SIGNATURES:

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Josette Flores, Assistant City Attorney

Patricia D. Aduato, Deputy City

Manager

AGREED AND ACCEPTED:

DOWNTOWN MANAGEMENT DISTRICT ATTEST:

Robert S. Ayoub, President

Marc Bernat, Secretary

DATE: _____, 2009

Calculation of Pro Rata Amount:

\$180,000.	Amount DMD would pay to City for 2009-10 if Agreement
continued	
- <u>60,000</u>	Amount City would pay to DMD for 2009-10 if Agreement
continued (credited)	
\$120,000	Net amount due to City for 2009-10 if Agreement continued
<u> / 12</u>	Number of months in year
\$ 10,000	Monthly net amount due City on pro rata basis
<u> x 4</u>	Number of months for which DMD could afford to pay City
\$ 40,000	Amount offered by DMD for City services for 4 months of October, November, December 2009 and January 2010, ending January 31, 2010