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

DEPARTMENT: **City Manager**

AGENDA DATE: **March 1, 2005**

CONTACT PERSON/PHONE: **Joyce A. Wilson, City Manager, X4844**
Elaine S. Hengen, Assistant City Attorney, X4550

DISTRICT(S) AFFECTED: **N/A**

SUBJECT:

An Ordinance granting authority to the City Manager to enter into and sign certain contracts on behalf of the City and to sign contracts and other documents; to authorize the City Manager to approve certain events and activities by the various departments of the city; to authorize the City Manager to issue certain types of refunds; to authorize the City Manager to make certain budget transfers; to authorize the City Manager to administratively handle matters addressed by resolutions of the City Council; and to set forth the delegation of administrative authority to the City Manager.

BACKGROUND / DISCUSSION:

This ordinance delineates the signatory and other responsibilities of the Mayor and the City Manager for administrative matters of the City government and conforms with the change to the Council-Manager form of government approved by the voters on February 7, 2004. The Ordinance grants authority to the City Manager to enter into and sign certain contracts; authorizes the City Manager to approve certain Departmental activities and events; and to take other administrative actions as listed in the ordinance. By enacting this ordinance, the Council will also make broad policy decisions regarding certain aspects of city operations, needs and services provided in lieu of making these decisions repeatedly each time that a contract is needed or the issue arises. Staff will carry out the policies as specifically set forth in the ordinance. These changes will increase staff efficiency in accomplishing routine tasks and providing City services, and will appreciably reduce paperwork processing costs.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

**********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:

05 FEB 21 PM 1:10
CITY CLERK DEPT.

CITY MANAGER: Joyce A. Wilson **DATE:** 2/28/05

#9304

AN ORDINANCE GRANTING THE AUTHORITY TO THE CITY MANAGER TO ENTER INTO AND SIGN CERTAIN CONTRACTS ON BEHALF OF THE CITY AND TO SIGN CERTAIN DOCUMENTS; TO AUTHORIZE THE CITY MANAGER TO APPROVE CERTAIN EVENTS AND ACTIVITIES BY THE VARIOUS DEPARTMENTS OF THE CITY; TO AUTHORIZE THE CITY MANAGER TO ISSUE CERTAIN TYPES OF REFUNDS; TO AUTHORIZE THE CITY MANAGER TO MAKE CERTAIN BUDGET TRANSFERS; TO AUTHORIZE THE CITY MANAGER TO ADMINISTRATIVELY HANDLE MATTERS PREVIOUSLY ADDRESSED BY RESOLUTIONS OF THE CITY COUNCIL; AND TO SET FORTH THE DELEGATION OF ADMINISTATIVE AUTHORITY TO THE CITY MANAGER.

WHEREAS, Section 4.2 of the El Paso City Charter allows the City Council to, by ordinance, provide for additional designated officials to sign acts of Council on behalf of the Mayor; and

WHEREAS, the City Manager and his or her designee should be authorized to sign most of the City's official documents, as well as documents on behalf of the El Paso City-County Health and Environmental District when necessary or required by law, as approved by the City Council, in the interest of efficiency of administrative governmental operations in the City; and

WHEREAS, the Mayor shall continue to sign the City's ordinances, the resolutions of the Council, and the documents which he or she is obligated by state law to sign, and shall be the preferred official to sign high-level contracts and documents involving other governmental entities; and

WHEREAS, the City enters into many contracts and similar documents that are routine in nature or are for certain categories or types of items that have already been approved through the budgeting process, and City Manager and his or her designee should be authorized to negotiate and enter into these contracts and documents, in accordance with the guidelines established herein, in the interest of efficiency of administrative governmental operations in the City; and

WHEREAS, with the change in government to the Council-Manager form of government, it is now more appropriate for the City Manager and his or her designee to authorize and grant permission to the various departments of the City to hold events, conduct certain activities, perform certain tasks and handle other items of an administrative nature that previously had come before the Council, in accordance with guidelines established herein; and

WHEREAS, permitting the City Manager and his or her designee to retire Police and Fire canines by transferring the canines to their handler is in the best interests of the dogs and allows the Departments to dispose of the dogs without facing the possibility that they would have to be destroyed; and

WHEREAS, the Council finds that a municipal public purpose exists for the distribution of donated refreshments and door prizes to volunteers working with community projects and attending certain City sponsored events and for permitting limited uses of City facilities, equipment and staff time for the conduct of events and activities that benefit the City, facilitate governmental operations, instill pride or patriotism, or benefit the community or assist with the betterment of the community, as set forth herein.

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

1. The City Council hereby grants authority to the City Manager to sign on behalf of the City of El Paso all lawful acts of the City Council, as approved, other than the ordinances and resolutions of the Council, as permitted by law.

2. The City Council hereby grants authority to the City Manager to sign and file releases of all liens imposed by the City of El Paso, in accordance with and as permitted by law, at such time as the City Manager determines that the liens have been satisfied.

3. The City Council hereby grants authority to the City Manager to negotiate and enter into contracts on behalf of the City and sign and bind the City for those contracts specified below, provided that the funding for the contract is contained in an approved budget. All such contracts shall be approved as to form by the City Attorney prior to execution, provided however, that if a standard rental agreement or form document is used by the City for any of these purposes, the City Attorney need only review and approve the standard agreement or form document as to form:
    a. Agreements for the loan of City-owned art, historical, cultural and similar objects, provided that such agreement requires the recipient to bear all costs and to carry insurance in an amount determined to be appropriate for the loan by the City Manager.
    b. Agreements that will allow departments such as the departments of museums, libraries and arts and culture to obtain the loan of art, historical, cultural and similar objects for temporary display purposes.
    c. Agreements for the rental of or which grant the use of City facilities for special events, when doing so is an appropriate use of the particular City facility and done in accordance with any ordinances, guidelines or policies that may have been adopted or established by the City Council. This grant of authority to authorize the action of the City Manager shall be in

addition to any authority granted to a department head to take such actions through other ordinances of the City, shall supersede and be controlling over any conflicting provision or procedure contained in any resolution previously adopted by the City Council and shall not constitute or authorize the creation of a new public forum at any City facility.

d. Leases, agreements, purchase orders and other similar documents for the City to acquire the use of facilities necessary for the operation and conduct of City business. In the event that any lease or other term of use extends beyond the current fiscal year, the actions of the City Manager to obligate and/or encumber City funding to pay the City's expenses shall constitute the approval of Council for the expenditure of monies extending beyond the current Fiscal Year, as may be required by Texas law and City Budget Resolutions.

e. Documents required by a donor relating to the making of a donation to the City.

f. Agreements, purchase orders and other similar documents as determined to be necessary in connection with the making or awarding of contracts for the acquisition of goods and services, including but not limited to the Council's discretionary funds expenditures, in an amount not to exceed $50,000 and in accordance with City Council approved purchasing policies as applicable; all agreements and similar documents in connection with revenue-generating contracts or contracts relating to the provision of goods and services by persons or organizations to the City at no cost to the City, such as park partner agreements, traffic signal agreements and median landscaping agreements; and memoranda establishing cooperative working relationships with other public safety agencies, excluding agreements made pursuant to the Interlocal Cooperation Act. Such authority shall supercede and be controlling over any conflicting provision or procedure contained in any resolution or other ordinance previously adopted by the City Council that required the contract to be presented to the Mayor and/or City Council for approval, except as may be set forth in any purchasing policy that has been approved by the Council.

g. Agreements and other documents required by the vendor for the purchase of computer software and the maintenance of computer software and hardware to include licensing and maintenance agreements.

h. Agreements and other required documents relating to the granting of permission for the display of objects, exhibits and exhibitions in City facilities as deemed to be appropriate for such purposes by the City Manager. Provided, however that such displays shall not interfere with the orderly function of government service in a City facility and provided further that this grant of authority shall not constitute or authorize the creation of a specific public forum at any City facility. This grant of authority to authorize the action of the City Manager shall supersede and be controlling over any conflicting provision or procedure contained in any resolution previously adopted by the City Council.

i. Any agreement or other required documents relating to the authority and powers granted to the City Manager as specified in section 5 of this ordinance.

4. The authority granted to the City Manager herein with respect to signing or entering into any contracts shall also include the authority to terminate such contracts as permitted under the contract and to sign amendments to such contracts when the amount of the amendment when added to the original amount of the contract does not exceed the applicable maximum amount or when the amount of the amendment does not exceed twenty-five percent of the original amount of the contract, whichever is greater.

5. The City Council hereby gives the authority the City Manager to authorize the various departments of the City to conduct events and activities and to take action as specified below by administrative action without further City Council action. Such authorization shall supersede and be controlling over any conflicting provision or procedure contained in any resolution previously adopted by the City Council.
   a. To authorize the service of beer and wine at special events and activities conducted at City facilities, in conformity with any policies established by the Council, and in connection with events deemed by the City Manager to be appropriately held at such facilities to include the Department of Museums and the Zoo. Such authorization shall not include any Police or Fire Department facility or location within City Hall other than the area designated as the People's Gallery.
   b. To authorize a City department to participate in a parade or other similar special event, not to exceed five events per department during each fiscal year.
   c. To authorize a City department to host or participate in an event, program or activity or to partner with an organization with respect to such event when the participation or partnership provides a direct benefit to the City or its officials or employees or serves such other municipal purpose. Examples of such events include educational and training programs, pride day and seminar presentations.
   d. To authorize limited uses of City facilities, equipment and staff time for events and activities that relate to a municipal purpose, the facilitation of governmental operations, instill pride or patriotism, provide a benefit to the community or assist with the betterment of the community, or further the comfort and convenience of the City's employees, such as a Christmas gift tag tree, blood drives, early voting, Martin Luther King, Jr. food drives, and uses by other governmental entities, in accordance with a written policy and procedure to be established by the City Manager and approved by the City Attorney. Provided, however that such uses shall not interfere with the orderly function and provision of government service in City facilities and provided further that this grant of authority shall not constitue or authorize the creation of a specific public forum at any City facility.

e. To authorize the Police and Fire Departments to retire a working canine by transferring the canine to his or her handler at no cost. In connection with such action, the Police or Fire Chief shall require the handler to sign a document releasing the City from liability in connection with the transfer of the canine.

f. To authorize the distribution of items donated to the City such as food, refreshments and items as designated by the donor to serve as door prizes or for volunteers contributing services to City projects and activities. Examples of such events include City sponsored seminars, pride day and fun run events.

6. The City Council hereby gives the authority to the City Manager to sign and submit any certification of compliance with any laws, regulations, plans, procedures or similar policy documents, as requested or required by any agency or organization, and to sign any documents and plans relating to City contracts or projects that need an official City approval or authorization, to include construction plan documents. A certification of compliance with the law shall first be signed as approved as to form by the City Attorney.

7. The City Council hereby gives the authority to the City Manager to authorize the issuance of a refund of an overpayment or erroneous payment made to the City, or for the refund of a permit in accordance with standards established by the Council or under another ordinance, unless state law requires the action of the City Council to make a determination or finding with respect to the issuance of the refund. The grant of authority for the City Manager to take the action of authorizing the issuance of a refund made in this ordinance shall supersede and be controlling over a conflicting provision in any ordinance or resolution previously adopted by the Council.

8. As provided for in Rule 18, Civil Service Rules and Regulations, Ordinance No. 8065, the City Council authorizes the City Manager to determine the manner and extent to which the employees in the unclassified service shall be governed by the Rules of the Civil Service System. All such determinations shall be reduced to writing and be made available to the employees in the unclassified service.

9. The City Manager is authorized to make budget transfers, which the City Council previously by resolution, authorized the Mayor to make in connection with the award of any contract for work on any City project.

10. The City Clerk shall file and maintain the originals of all contracts entered into and signed pursuant to this ordinance in accordance with applicable records retention requirements.

11. The grant of authority made herein to the City Manager shall extend to the identical matters that come before the City as set forth herein as they relate to the El Paso City-County Health and Environmental District and which are authorized

or required by law or any Interlocal Cooperative Agreement to come before the City for approval.

12. This ordinance may not be construed to delegate authority to approve, without City Council action, any contract, contract amendment, or other legal instrument that is required by state law to be approved by the City Council.

13. The City Manager may delegate the authority granted under this ordinance to the extent allowed by the City Code, the City Charter or state law. The City Manager may make rules and procedures, which are not in conflict with the City Code, the City Charter, or state law, concerning the form and substance of administrative actions and the administration of contracting processes.

14. The City Attorney may delegate the responsibilities set forth under this ordinance to a deputy city attorney or assistant city attorney.

ADOPTED this 15th day of March 2005.

THE CITY OF EL PASO

ATTEST:

Joe Wardy, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Elaine S. Hengen
Assistant City Attorney

APPROVED AS TO CONTENT:

Joyce Wilson
City Manager