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

DEPARTMENT: **Parks and Recreation Department**

AGENDA DATE: **11/30/04**

CONTACT PERSON/PHONE: **Dr. Norman Merrifield/ 4331**

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 Mayor be authorized to sign a City Parksites Maintenance Contract among the City of El Paso and Texas Industries for the Blind and Handicapped (TIBH), and Border TM Industries, Inc., to provide for parksites maintenance services for the City's Parks and Recreations Department.

That the Mayor be authorized to sign a City Parks Restrooms Maintenance Contract among the City of El Paso and Texas Industries for the Blind and Handicapped (TIBH), and Border TM Industries, Inc., to provide for maintenance services at restrooms for the City's Parks and Recreations Department.

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 maintenance services in the parks are fundamental requirements at reasonable costs. Reductions will be assumed, if necessary, by City Solid Waste Department or Parks Staff.

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

Yes. Previous contracts signed December, 2001.

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?

It will be funded by general fund and user fee appropriations. Yes, the general fund item has been budgeted under account 51010262/503113- Land Management-Horticulture and park clean up. The user fee fund will be appropriated bases upon a new user fee schedule to be approved by Mayor and Council.

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A

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:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a City Parks Restrooms Maintenance Contract among the City of El Paso and Texas Industries for the Blind and Handicapped (TIBH), and Border TM Industries, Inc., to provide for maintenance services at restrooms for the City's Parks and Recreations Department.

ADOPTED this 7th day of December, 2004.

CITY OF EL PASO:

Joe Wardy, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:

Norman C. Merrifield, Ed.D., Director
Parks & Recreation Department

CITY PARKS RESTROOMS MAINTENANCE CONTRACT

This CONTRACT- is entered into for the date **January 1, 2005, through December 31, 2005**, between the **CITY OF EL PASO**, a home rule municipal corporation, hereinafter referred to as the **"City,"** and **TEXAS INDUSTRIES FOR THE BLIND AND HANDICAPPED (TIBH)**, a private non-profit corporation and the certifying party, and **BORDER TM INDUSTRIES, INC.**, (together, **"the Contractors"**), to provide specified maintenance services for the Parks and Recreation Department for **"CITY PARKS RESTROOMS MAINTENANCE"**.

WITNESSETH:

WHEREAS, the City of El Paso and the County of El Paso have previously contracted the Border TM Industries, Inc. an employment corporation for individuals with mental disabilities, to provide services to the citizens of the City and County; and

WHEREAS, Texas Industries for the Blind and Handicapped (TIBH) is a private non-profit corporation responsible for coordinating programs for the visually impaired and handicapped; and

WHEREAS, the City of El Paso has need for the services outlined in this Contract; and

WHEREAS, Border TM Industries, Inc. is able to provide such services for the mutual benefit of its workers and the City;

NOW, THEREFORE, it is hereby agreed by the parties as follows:

1. **Scope of Services**. Contractors shall provide the following cleaning services and maintenance for **"The City of El Paso-Parks Restrooms"** at locations as stipulated in Appendix "A":

Schedule 1 Duties:

BORDER TM INDUSTRIES, INCORPORATED

1. Restrooms - Monday through Sunday inspect five times per week, on designated days, clean and disinfect as required, and provide all cleaning materials and toilet tissue.

The Parks Operations Manager, or designee, and Contractors shall agree upon a time schedule for the work to be done. Such schedule may be revised periodically by the Parks Operations Manager or designee as needed because of climate, ground or other conditions. Further, the Parks Operations Manager may, in his sole discretion, add to or delete from the sites and locations shown on Exhibit A per mutual agreement of the parties and/or contract amendment.

2. **Term**. This Contract shall become effective on **January 1, 2005**, and shall terminate on **December 31, 2005.**

3. **Consideration**. The City shall pay TIBH the sum of $33,311.28 for the period of January 1, through December 31, 2005. BORDER TM INDUSTRIES, INC. shall bill the City on the 25th day of each month for services furnished. Upon verification and approval of such billing, the City shall proceed to process and send payment to TIBH, which. shall send the appropriate amount, within a reasonable time, to BORDER TM INDUSTRIES, INC. as may be determined by TIBH and BORDER TM INDUSTRIES, INC..

4. **Termination**. Either party may terminate this Contract if the other party has breached the Contract and fails to correct such breach for a period of ten (10) days after receipt of written notice to correct the same. In addition, either party may terminate this Contract without cause upon thirty (30) days' written notice to the other party of the intention to terminate this Contract. In addition, this Contract may be terminated at any time by mutual agreement of the Parties as reduced to writing. In addition, this Contract shall automatically terminate if the City Council of the City of El Paso fails to appropriate or budget money for the payment of the services under this Contract. All payments by the City under this Contract are payable only out of current City revenues.

Upon termination of this Contract for any reason, Contractors shall return all equipment and materials provided by the City in good usable order, allowing for ordinary wear and tear.

5. **Independent Contractor**. **TIBH** and **BORDER TM INDUSTRIES, INC**. shall instruct all of their employees as to work procedures and thoroughly acquaint each employee with their duties. **City** shall notify **TIBH** and **BORDER TM INDUSTRIES, INC**. if any of **BORDER TM INDUSTRIES, INC.**' employees do not perform their duties as necessary to carry out Contractors' duties under this Contract. Nothing contained herein shall be construed as creating the relationship of employer and employee between the City and the Contractors or between the City and the Contractors' employees. **TIBH** and **BORDER TM INDUSTRIES, INC.** shall be deemed at all times to be an independent contractor. In carrying out the terms of this Contract, **TIBH** and **BORDER TM INDUSTRIES, INC**. shall select their own employees and such employees shall be and act under the exclusive and complete supervision and control of Contractors.

6. **Property Damage.** Contractors shall promptly notify the Parks Department of the City of any damage or vandalized plants or materials that Contractors discover on the property.

7. **Trash**. The City will provide dumpsters in appropriate locations for trash and debris from cleanup work, and provide liners for trash cans as required.

8. **Safety**. Contractors shall train their employees or clients in safety procedures and all crews shall have a Contractors' staff supervisor with them. The Contractors shall provide first aid kits and fire extinguishers for all crew vehicles. Crews shall use safety vests and traffic cones when working in or near streets.

9. **Insurance**. Border TM Industries, Inc. shall carry public liability insurance in the minimum amount of $250,000 for death or personal injury to any one person, $500,000 for death or personal injury to more than one person in any one accident and $100,000 for property damage.

The policy shall be carried by an insurance company authorized to do business in the State of Texas. The policy shall be in a form acceptable to the City and shall be for the protection of the City as well as Border TM Industries, Inc.. The City shall be named as an additional insured. A copy of the policy or certificate of insurance shall be filed with the City Clerk. The policy shall provide that it cannot be canceled or the amount of coverage reduced without ten (10) days written notice to the City.

10. **Indemnity.** It is an express condition of this Contract that the CITY, its elected officials and its officers, agent and employees shall be free from any and all claims, debts, demands liabilities or causes of action of every kind or character, whether in law or equity, by reason of any death, injury or damage to any person or persons or damage or destruction of property or loss of use thereof, whether it be the person or property of the Contractors, their agents or employees, or of any third persons, caused by the negligence or willful misconduct of the Contractors, their officers, agents, or employees, in the conduct of the Contractors' operations authorized herein. The Contractors hereby covenant and agree to indemnify and to save harmless the CITY, its elected officials and its officers, agents and employees against and from any and all such claims, demands, debts, liabilities and causes of action (including reasonable attorney's fees and costs).

11. **Workmanship.** All work shall be done in a good and workmanlike manner. The City's Parks Operations Manager or designee shall notify Contractors' officials if the work does not comply with such standards. Any disagreements concerning performance shall be resolved by the City's Director of Parks and Recreation.

12 **Compliance with Laws and Ordinances.** Contractors shall at all times observe and comply with all federal, state and local laws, ordinances and regulations which in any manner affect

the Contract or the work and to the extent allowed by law, shall indemnify and save and hold harmless the City against all claims arising from the violation of any such laws, ordinances and regulations whether by the Contractors or its employees or clients.

13. **Venue and Law**. For the purposes of determining the place of the Contract and the law governing the same, this Contract is entered into in the City and County of El Paso, State of Texas, and shall be governed by the laws of the State of Texas. Venue for all purposes shall be in the courts of El Paso County, Texas.

14. **Severability.** Every provision of this Contract is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Contract.

15. **Entire Agreement**. This Contract constitutes and expresses the entire agreement between the parties regarding the scope of services specified. It shall not be amended or modified except by a written instrument signed by both parties. The parties have entered into other agreements which are not affected or modified by this Contract.

16. **Assignment**. This Contract shall not be assigned without the prior written consent of all of the parties.

17. **Binding Agreement**. The individual signing this Contract acknowledges that he is authorized to do so, and said individual further warrants that he is authorized to commit and bind Contractors to the terms and conditions of this Contract.

18. **Additional Maintenance Locations.** All additional locations after acceptance of agreement of contract shall be addition in accordance with "Additional Procedures" as established by The City of El Paso-"City Parks Operations Manager" and TIBH previously for the amount of services to be performed, and costing criteria's. Appendix "B" As requested, the

BORDER TM INDUSTRIES, INCORPORATED

"Contractor" shall set fourth a proposal for requested locations by the City of El Paso, and present to The City of El Paso-City Parks Operations Manager. Upon agreement by both parties, services shall commence as required by The City of El Paso.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 7th day of December, 2004.

CITY OF EL PASO

Joe Wardy, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:

Norman C. Merrifield, Ed.D., Director
Parks and Recreation Department

(Signatures on following page)

BORDER TM INDUSTRIES, INCORPORATED

TEXAS INDUSTRIES FOR THE BLIND
AND HANDICAPPED

By _____
Name (printed) Henry Hernandez
Title Marketing Sales Representative

BORDER TM INDUSTRIES., INC.
("Contractor")

By: _____
Everardo M. Sanchez, Executive Director-
Border TM

APPENDIX "A"

RESTROOMS

		SERVICE/SET (M/F)
BLACKIE CHESHER	100 N. ZARAGOSA	$11.90
CAPISTRANO PARK	8700 PADILLA	$11.90
Lambka, Irwin J. Park (Cloudview)	6600 Cloudview	$11.90
DELTA PARK	4321 DELTA	$11.90
Dick Shinaut Park	11701 RUFUS BRIJALBA	$11.90
Eastwood Recreation Center	FUTURE	$11.90
HACIENDA HEIGHTS PARK	7735 PHOENIX AVE.	$11.90
MARTY ROBBINS PARK	11600 VISTA DEL SOL	$11.90
MARTY ROBBINS RECREATION CTR	FUTURE	$11.90
MODESTO PARK	4600 EDNA	$11.90
SUE YOUNG (CIVIC LDRS.) PARK	9730 DIANA	$11.90
WESTSIDE SOCCER COMPLEX	FUTURE	$11.90
NE REGIONAL	FUTURE	$11.90
WESTSIDE RECREATION CTR.	FUTURE	$11.90

WEEKEND SERVICE

RESTROOMS

		SERVICE/SET (M/F)
Blackie Chesher Park	9144 Escobar Drive	$11.90
Capistrano Park	8700 Padilla	$11.90
Delta Park (3) (Veretans of Company E)	4321 Delta	$11.90
Dick Shinaut Park	11701 Rufus Brijalba	$11.90
Eastwood Recreation Center	FUTURE	$11.90
Hacienda Heights Park	7735 Phoenix Ave.	$11.90
Lambka, Irwin J. Park	6600 Cloudview	$11.90
Modesto Park	4600 Edna	$11.90
Marty Robbins Park	11600 Vista Del Sol	$11.90
Sue Young Park	9730 Diana	$11.90

APPENDIX "B"

ACRE SIZE	TYPE	IND. COST	ANNUAL COSTS
1-3	PARK	$112.00	$1,344.00
3.1-5	PARK	$168.00	$2,016.00
5.1-10	PARK	$224.00	$2,688.00
10.1-15	PARK	$280.00	$3,360.00
15.1-25	PARK	$336.00	$4,032.00
25.1-40	PARK	$392.00	$4,704.00
40.1-60	PARK	$448.00	$5,376.00
60.1 & ABOVE	PARK	$448.00 PLUS ANALYSIS	-
RESTROOMS		$257.83	$3093.96
PORTA JONS		$38.74	$464.88
PARK CUTTING	$75.00/ACRE/CUT		

Prepared by:

_____ _____

RICHARD TERRELL GLENN (DATE)
CITY CONTRACTS MANAGER-Border TM