

A RESOLUTION authorizing the issuance of the City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Series 2023A (Downtown Ballpark Venue Project) for debt service savings; approving a Fifth Supplement to Trust Agreement and a Fifth Amendment to Master Lease Agreement; authorizing the execution of other documents and instruments necessary or convenient to carry out the issuance of such refunding bonds; and resolving other matters incident and related thereto.

WHEREAS, the City of El Paso Downtown Development Corporation (the "**Corporation**") has been created and organized as a public, nonprofit local government corporation incorporated pursuant to Subchapter D of Chapter 431, Texas Transportation Code, as amended, to aid, assist and act on behalf of the City of El Paso, Texas (the "**City**") in the performance of the City's governmental functions; and

WHEREAS, pursuant to an election held in the City on November 6, 2012, the voters of the City authorized the City to provide for the planning, acquisition, establishment, development, construction and financing of a sports and community venue project within the City of the type described and defined in Section 334.001(4)(A) of and permitted by Chapter 334, Local Government Code, as amended (the "**Venue Project Act**"), and described in summary form as a multipurpose coliseum, stadium or other type of arena or facility that is planned for use for one or more professional or amateur sports events, including minor league baseball games and related infrastructure as defined in the Venue Project Act (the "**Project**"), and to impose a tax (the "**HOT**") on the occupancy of a room in hotels located within the City, at a maximum rate of two percent (2%) of the price paid for such room, as authorized by Subchapter H of the Venue Project Act; and

WHEREAS, the Corporation has previously issued its "City of El Paso Downtown Development Corporation Special Revenue Bonds, Series 2013A (Downtown Ballpark Venue Project )" (the "**Series 2013 Tax Exempt Bonds**") and the "City of El Paso Downtown Development Corporation Special Revenue Bonds, Taxable Series 2013B (Downtown Ballpark Venue Project)" (the "**Series 2013 Taxable Bonds**") pursuant to a Trust Agreement relating to the City of El Paso, Texas, Downtown Ballpark Venue Project Financing, dated as of August 1, 2013, as amended by a First Amendment to the Trust Agreement dated as of October 15, 2013 (collectively, as amended, the "**Original Trust Agreement**"), by and between the Corporation and Wells Fargo Bank, National Association, as trustee; and

WHEREAS, the Corporation and Wells Fargo Bank, National Association entered into a First Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing, dated May 1, 2016 (the "**First Supplement**"), in connection with the Corporation's issuance of its "City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Series 2016 (Downtown Ballpark Venue Project)" (the "**Series 2016 Bonds**"), a Second Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing, dated July 17, 2020 (the "**Second Supplement**"), in connection with the Corporation's issuance of its "City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Series 2020 (Downtown Ballpark Venue Project)" (the "**Series 2020 Bonds**"), and a Third Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing, dated June 1, 2021 (the "**Third Supplement**"), in connection with the Corporation's issuance of its "City of El Paso

Downtown Development Corporation Special Revenue Refunding Bonds, Taxable Series 2021 (Downtown Ballpark Venue Project)” (the “**Series 2021 Bonds**”); and

WHEREAS, the Corporation and Computershare Trust Company, N.A. (as successor to Wells Fargo Bank, National Association, the “**Trustee**”) will enter into a Fourth Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing, dated June 1, 2023 (the “**Fourth Supplement**”), in connection with the Corporation’s issuance of its “City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Series 2023 (Downtown Ballpark Venue Project)” (the “**Series 2023 Bonds**”); and

WHEREAS, the City and the Corporation executed that Master Lease Agreement Relating to the City of El Paso, Texas, Downtown Ballpark Venue Project Financing, dated as of August 1, 2013, between the City and the Corporation (the “**Master Lease Agreement**”), pursuant to which the City leased the Project to the Corporation and the Corporation subleased the Project back to the City; and

WHEREAS, the City and the Corporation executed that First Amendment to Master Lease Agreement, dated as of May 1, 2016 (the “**First Lease Amendment**”), in connection with the Corporation’s issuance of the Series 2016 Bonds, a Second Amendment to Master Lease Agreement, dated as of July 17, 2020 (the “**Second Lease Amendment**”) in connection with the Corporation’s issuance of the Series 2020 Bonds, and a Third Amendment to Master Lease Agreement, dated as of June 1, 2021 (the “**Third Lease Amendment**”) in connection with the Corporation’s issuance of the Series 2021 Bonds; and

WHEREAS, the City and the Corporation will enter into a Fourth Amendment to Master Lease Agreement, dated as of June 1, 2023 (the “**Fourth Lease Amendment**”) in connection with the Corporation’s issuance of the Series 2023 Bonds; and

WHEREAS, under the Master Lease Agreement, First Lease Amendment, Second Lease Amendment, and Third Lease Amendment, the City pays to the Corporation lease payments (the “**Lease Payments**”) at such times and in such amounts as will be sufficient to pay debt service on the Outstanding Parity Bonds, such Lease Payments to be primarily funded from the HOT; and

WHEREAS, Chapter 1207 of the Texas Government Code, as amended (“**Chapter 1207**”), authorizes the Corporation to issue refunding bonds and deposit the proceeds of the sale directly with any place of payment for the refunded bonds, or other authorized depository, and such deposit, when made in accordance with such statute, shall constitute firm banking and financial arrangements for the discharge and final payment of such refunded bonds; and

WHEREAS, the Board of Directors of the Corporation (the “**Board**”) hereby finds and determines that it is in the best interest of the Corporation to issue its “City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Series 2023A (Downtown Ballpark Venue Project)” (the “**Series 2023A Bonds**”) to refund the outstanding Series 2021 Bonds for debt service savings; and

WHEREAS, the Series 2023A Bonds will be issued pursuant to the terms of a Fifth Supplement To Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing Between the Trustee and the Corporation (the “**Fifth Supplement**”), substantially in the form of attached Exhibit A which is hereby incorporated by reference; and

WHEREAS, the Master Lease Agreement will have to be amended pursuant to a Fifth Amendment to Master Lease Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing Between the City and the Corporation (the "***Fifth Lease Amendment***"), substantially in the form of attached Exhibit B which is hereby incorporated by reference, to reflect the issuance of the Series 2023A Bonds and defeasance of the Series 2021 Bonds; and

WHEREAS, by City Ordinance adopted on the date hereof, the City Council of the City authorized and approved the issuance of the Series 2023A Bonds by the Corporation and the execution of the Fifth Lease Amendment and;

WHEREAS, there have been presented to the Board forms of each of the following documents:

1. the Fifth Supplement; and
2. the Fifth Lease Amendment; the Fifth Supplement and the Fifth Lease Amendment are collectively referred to herein as the "***Transaction Documents***"; and

WHEREAS, the Board shall by this Resolution, in accordance with the provisions of Chapter 1207, delegate to a Pricing Officer (hereinafter designated) the authority to determine the principal amount of Series 2023A Bonds to be issued, negotiate the terms of sale thereof and approve all final terms of the Series 2023A Bonds and to select the specific maturities (whole or part) of the Series 2021 Bonds to be refunded through payment of the purchase price and cancellation thereof through a tender offer (such transaction, the "***Tender Offer***") or otherwise;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF EL PASO DOWNTOWN DEVELOPMENT CORPORATION THAT:

SECTION 1: Transaction Documents. The Board hereby finds the form and substance of the Transaction Documents to be satisfactory and proper and hereby determines to proceed with the issuance and sale of the Series 2023A Bonds, the execution of the Transaction Documents (to the extent necessary by the terms thereof) and the taking of such other actions as may be necessary and appropriate in connection therewith. The issuance of the Series 2023A Bonds is found to be in the best interest of the Corporation.

SECTION 2: Approval of Fifth Supplement. The Board hereby approves the Fifth Supplement in substantially the form and substance presented to the Board, as further modified and finalized in accordance with Section 4 hereof, and the Executive Director or Treasurer of the Corporation is hereby authorized and directed, for and on behalf of the Corporation, to execute and deliver the Fifth Supplement and the Secretary, Treasurer or any other Board member or officer of the Corporation is hereby authorized to attest the Fifth Supplement on behalf of the Corporation. Upon execution by the parties thereto and delivery thereof, the Fifth Supplement shall be binding upon the Corporation in accordance with the terms and provisions thereof. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Fifth Supplement.

SECTION 3: Approval of Fifth Lease Amendment. The Board hereby approves the Fifth Lease Amendment in substantially the form and substance presented to the Board, as

further modified and finalized to take into account the pricing delegation set forth in Section 4 hereof, and the Chair or Vice Chair of the Board or the Executive Director or Treasurer of the Corporation is hereby authorized and directed, for and on behalf of the Corporation, to execute and deliver the Fifth Lease Amendment and the Secretary, the Treasurer or any other Board member or officer of the Corporation is hereby authorized to attest to the Fifth Lease Amendment on behalf of the Corporation. Upon execution by the parties thereto and delivery thereof, the Fifth Lease Amendment shall be binding upon the Corporation in accordance with the terms and provisions thereof.

**SECTION 4: Delegation of Authority to Pricing Officer.** As authorized by applicable law including Chapter 1207, each of the Executive Director and the Treasurer of the Corporation (each a “**Pricing Officer**”) is hereby authorized to act on behalf of the Corporation in selling and delivering the Series 2023A Bonds and carrying out the other procedures specified in this Resolution, including, but not limited to, selecting the specific maturities (whole or part) of the Series 2021 Bonds to be refunded or purchased for cancellation in accordance with the invitation to offer bonds for purchase (including all exhibits and/or appendices thereto, the “**Invitation**”), and the method for determining the purchase price for each maturity of the Series 2021 Bonds subject to the Tender Offer, designation of an information agent and tender agent related thereto and the principal amount and purchase price of the Series 2021 Bonds to be tendered pursuant to the Tender Offer and accepted for purchase and cancellation, overseeing the preparation and distribution of the Invitation with respect to the Series 2021 Bonds, overseeing the preparation and execution of a dealer manager agreement and any agreement with the information agent and tender agent relating to the Invitation and the Tender Offer, determining the aggregate original principal amount of the Series 2023A Bonds, the date of the Series 2023A Bonds, any different designation or title by which the Series 2023A Bonds shall be known, the terms of any bond insurance applicable to the Series 2023A Bonds, the price at which the Series 2023A Bonds will be sold, the years in which the Series 2023A Bonds will mature, the principal amount of the Series 2023A Bonds to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment dates, the record date, the price and terms upon and at which the Series 2023A Bonds shall be subject to redemption prior to maturity at the option of the Corporation, as well as any mandatory sinking fund redemption or extraordinary optional redemption provisions, the designation of an escrow agent, if applicable, satisfying the requirements of Chapter 1207, the designation of one or more funds for the payment of the Series 2023A Bonds, and all other matters relating to the issuance, sale and delivery of the Series 2023A Bonds and the Tender Offer, all of which shall be specified in the final executed Fifth Supplement and an approval certificate (the “**Approval Certificate**”) executed by the Pricing Officer, provided that:

(a) the aggregate original principal amount of the Series 2023A Bonds shall not exceed \$21,750,000;

(b) the refunding of the Series 2021 Bonds must produce present value debt service savings of at least three percent (3.00%), net of any Corporation contribution;

(c) the aggregate true interest cost for the Series 2023A Bonds shall not exceed 5.25%; and

(d) the maximum maturity date for the Series 2023A Bonds shall not exceed August 15, 2038.

In establishing the aggregate principal amount of the Series 2023A Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in Subsection (a) above, which shall be sufficient in amount to provide for the purposes for which the Series 2023A Bonds are authorized and to pay the costs of issuing the Series 2023A Bonds. Unless otherwise extended by an act of the Board, the delegation made hereby shall expire if not exercised by the Pricing Officer on or prior to 180 days after the adoption of this Resolution. The Series 2023A Bonds shall be sold by negotiated sale to the Purchasers (defined below), at such price(s) and with and subject to such terms as set forth in the Fifth Supplement and/or the Purchase Contract (defined below). The execution of the Purchase Contract shall evidence the sale date of the Series 2023A Bonds by the Corporation to the Purchasers.

If the Pricing Officer determines that bond insurance results in a net reduction of the Corporation's interest costs associated with the Series 2023A Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of the Series 2023A Bonds, to obtain from a municipal bond insurance company (the "*Insurer*") a municipal bond insurance policy in support of the Series 2023A Bonds. To that end, should the Pricing Officer exercise such authority and commit the Corporation to obtain a municipal bond insurance policy, for so long as such policy is in effect, the requirements of the Insurer relating to the issuance of such policy or policies are incorporated by reference into this Resolution and made a part hereof for all purposes, notwithstanding any other provision of this Resolution to the contrary.

**SECTION 5: Purchase of Series 2021 Bonds.** If the Corporation undertakes the Tender Offer for all or a portion of the Series 2021 Bonds, on or prior to the date of the initial delivery of the Series 2023A Bonds (the "*Closing Date*"), the Trustee shall deposit in the Series 2023A Proceeds Account established pursuant to the Fifth Supplement the amount set forth in the Approval Certificate for the purchase for cancellation of the Series 2021 Bonds in accordance with the Invitation. Specifically, each holder of the purchased bonds identified in the Approval Certificate (the "*Purchased Bonds*") will deliver or cause to be delivered its Series 2021 Bonds to the Corporation's DTC ATOP Account as described in the Invitation. The Trustee, on behalf of the Corporation, will complete the purchase by paying the purchase price for the Purchased Bonds from the Series 2023A Proceeds Account according to the instructions described in the Approval Certificate or other written instructions from the Corporation or its financial advisor. The Corporation hereby directs the Trustee, after such payments have been made by the Trustee, on behalf of the Corporation, to cancel the Series 2021 Bonds so purchased.

**SECTION 6: Approval of Dealer Manager.** To effectuate the purchase of the Series 2021 Bonds, the Corporation hereby selects Jefferies LLC as the exclusive dealer manager (the "*Dealer Manager*") to assist the Corporation in conducting the Tender Offer and further authorizes each Pricing Officer to negotiate and execute a Dealer Manager Agreement, and, in conjunction with the Dealer Manager, to execute, acknowledge, modify, deliver, and file with the MSRB any and all documentation related to the Tender Offer. Furthermore, each Pricing Officer is authorized to (i) negotiate the fees and expenses of the information agent and tender agent, whether such agent is hired by the Corporation or by the Dealer Manager, in connection with the Invitation, and (ii) to pay, or reimburse the Dealer Manager for, the fees and expenses of the

information and tender agent, in an amount not to exceed \$25,000, from lawfully available funds of the Corporation.

SECTION 7: Execution - Registration. The Board hereby approves the Series 2023A Bonds in substantially the forms and substance set forth in the Fifth Supplement as presented to the Board, and the Chair or Vice Chair of the Board and the Secretary or the Treasurer of the Corporation are hereby authorized and directed, for and on behalf of the Corporation, to execute the Series 2023A Bonds or have their facsimile signatures placed upon the Series 2023A Bonds, and such officers are hereby authorized and directed to deliver the Series 2023A Bonds in accordance with their terms. Series 2023A Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the Corporation on the date of execution of the Fifth Supplement shall be deemed to be duly executed on behalf of the Corporation, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Series 2023A Bonds to the Purchasers and with respect to Series 2023A Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Chapter 1201, Texas Government Code, as amended.

SECTION 8: Trustee. Computershare Trust Company, N.A., Dallas, Texas is hereby appointed and confirmed as Trustee and paying agent under the terms of the Fifth Supplement. If such bank shall be unable or unwilling to serve in one or more of such capacities, the Pricing Officer, Chair or Vice Chair of the Board is hereby authorized and directed to designate a commercial bank or other legally authorized entity to serve as Trustee and paying agent in the manner and to the extent described in the Fifth Supplement.

SECTION 9: Sale of Series 2023A Bonds - Official Statement Approval. The Series 2023A Bonds are to be sold by the Corporation to the purchasers named in the Approval Certificate, as the underwriters of the Series 2023A Bonds (collectively, the “**Purchasers**”) in accordance with a bond purchase agreement (the “**Purchase Contract**”), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer in accordance with Section 4 hereof. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract for and on behalf of the Corporation and as the act and deed of the Board.

The Chair and Vice Chair of the Board and the Executive Director, Secretary and/or Treasurer of the Corporation are hereby severally authorized, directed and empowered to prepare, amend, supplement and approve a preliminary official statement for the Series 2023A Bonds (the “**Preliminary Official Statement**”) and a final official statement for the Series 2023A Bonds (the “**Official Statement**”) for use in the proposed offering of such Series 2023A Bonds. The Board hereby authorizes and approves the use and distribution of the Preliminary Official Statement and the Official Statement (that have been approved in accordance with the previous sentence) in the offering of the Series 2023A Bonds and the Pricing Officer is hereby authorized to deem such Preliminary Official Statement “final” for purpose of the Rule on behalf of the Corporation.

SECTION 10: Execution of Tax Certifications. The Chair and Vice Chair of the Board, and the Executive Director, Treasurer, Secretary or any other officer of the Corporation, are each authorized to execute such documents, certificates and receipts, and to make such elections with respect to the tax-exempt status of the Series 2023A Bonds, as they may deem appropriate in

order to consummate the delivery of the Series 2023A Bonds in accordance with the provisions and terms of this Resolution and the Fifth Supplement.

SECTION 11: Bond Counsel Opinion. The obligation of the Purchasers to accept delivery of the Series 2023A Bonds is subject to the Purchasers being furnished with the final, approving opinion of Norton Rose Fulbright US LLP, Bond Counsel for the Corporation, which opinion shall be dated and delivered the Closing Date. The engagement of such firm as Bond Counsel to the Corporation in connection with the Tender Offer and the issuance of its Series 2023A Bonds is hereby approved and confirmed.

SECTION 12: Further Procedures. Each of the Chair, Vice Chair, Executive Director, Treasurer, Assistant Treasurer, Secretary and Assistant Secretary of the Corporation is, individually and collectively, authorized and directed to take all action necessary or reasonably required to effectuate the issuance of the Series 2023A Bonds and the Tender Offer and for carrying out, giving effect to, and consummating the transactions described in the Series 2023A Bonds, this Resolution, the Transaction Documents, and any other instruments authorized by this Resolution or required to effect the transaction contemplated hereby, including without limitation, the execution and delivery of any closing documents and other certificates and documents in addition to those specifically referenced herein that are required in connection with the issuance of the Series 2023A Bonds.

Furthermore, prior to the initial delivery of the Series 2023A Bonds, any of the Chair, Vice Chair, Executive Director, Treasurer or Bond Counsel to the Corporation are each hereby authorized and directed to approve any changes or corrections to this Resolution or to any of the documents authorized and approved by this Resolution: (i) in order to cure any ambiguity, formal defect, or omission in the Resolution or such other document; (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Series 2023A Bonds by the Attorney General; (iii) as requested by any of the national bond rating agencies to obtain a rating or ratings on the Series 2023A Bonds; or (iv) to accomplish the issuance and delivery of the Series 2023A Bonds and Tender Offer and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Resolution, which determination shall be final. In the event that any officer of the Corporation whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Additionally, the Chair, Vice Chair, Executive Director, Treasurer, Assistant Treasurer, Secretary or Assistant Secretary of the Corporation may execute, authenticate, certify, or endorse or authorize to be executed, authenticated, certified, or endorsed with such officer's facsimile signature instead of the officer's manual signature any written agreement, including a contract, purchase order or surety bond, and any related document, including an application, certificate, or approval. For purposes of this Resolution, "facsimile signature" means a reproduction of the manual signature of an authorized officer that is made by any method.

SECTION 13: Incorporation of Findings and Determinations. The findings and determinations of the Board contained in the preamble hereof are hereby incorporated by

reference and made a part of this Resolution for all purposes as if the same were restated in full in this Section.

SECTION 14: Corporate Officers. As set forth in the Original Trust Agreement, the Executive Director of the Corporation shall at all times be the person serving as the City Manager of the City; the Treasurer of the Corporation shall at all times be the person serving in the capacity of the Chief Financial Officer of the City; and the Secretary of the Corporation shall at all times be the person serving as the City Clerk of the City. The City's Comptroller is hereby confirmed as the Assistant Treasurer of the Corporation and any Alternate City Clerk is hereby confirmed as an Assistant Secretary of the Corporation.

SECTION 15: Severability. If any section, paragraph, clause, or provision of the Resolution shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution. In case any obligation of the Corporation authorized or established by this Resolution or the Series 2023A Bonds is held to be in violation of law as applied to any person or in any circumstance, such obligation shall be deemed to be the obligation of the Corporation to the fullest extent permitted by law.

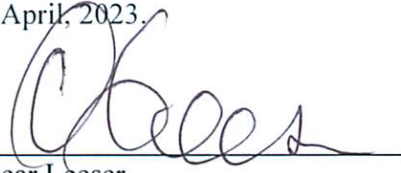
SECTION 16: Public Meeting. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 17: Effective Date. This Resolution shall be in force and effect from and after its passage on the date shown below.

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APPROVED AND ADOPTED this 11<sup>th</sup> day of April, 2023.



Oscar Leeser  
Chair, Board of Directors  
City of El Paso  
Downtown Development Corporation

ATTEST:



Laura D. Prine  
Secretary, City of El Paso  
Downtown Development Corporation

Approved as to Form:



Karla Nieman  
City Attorney  
City of El Paso, Texas

Approved as to Content:



Robert Cortinas  
Treasurer, City of El Paso  
Downtown Development Corporation

Approved as to Form:



Paul A. Braden  
Bond Counsel

**Exhibit A**  
Fifth Supplement

**Exhibit B**

**Fifth Lease Amendment**