Oscar Leeser Mayor



CITY COUNCIL Peter Svarzbein, District 1 Alexsandra Annello, District 2 Cassandra Hernandez, District 3 Joe Molinar, District 4 Isabel Salcido, District 5 Claudia L. Rodriguez, District 6 Henry Rivera, District 7 Cissy Lizarraga, District 8

Tommy Gonzalez City Manager

# \*\*\* REVISED \*\*\* AGENDA FOR THE REGULAR COUNCIL MEETING

November 22, 2022

COUNCIL CHAMBERS, CITY HALL, 300 N. CAMPBELL AND VIRTUALLY 9:00 AM

# THE LOCAL HEALTH AUTHORITY STRONGLY RECOMMENDS THE USE OF MASKS IN ALL CITY FACILITIES AND INDOOR SPACES

Teleconference phone number: 1-915-213-4096 Toll free number: 1-833-664-9267 Conference ID: 209-702-787#

AND

## AGENDA REVIEW MEETING COUNCIL CHAMBERS, CITY HALL 300 N. CAMPBELL AND VIRTUALLY November 21, 2022 9:00 AM Teleconference phone number: 1-915-213-4096 Toll free number: 1-833-664-9267 Conference ID: 183-667-515#

Notice is hereby given that an Agenda Review Meeting will be conducted on November 21, 2022 at 9:00 A.M. and a Regular Meeting of the City Council of the City of El Paso will be conducted on November 22, 2022 at 9:00 A.M. Members of the public may view the meeting via the following means:

Via the City's website. http://www.elpasotexas.gov/videos Via television on City15, YouTube: https://www.youtube.com/user/cityofelpasotx/videos

In compliance with the requirement that the City provide two-way communication for members of the public, members of the public may communicate with Council during public comment, and regarding agenda items by calling the following number:

1-915-213-4096 or Toll free number: 1-833-664-9267

At the prompt please enter the corresponding Conference ID:

Agenda Review, November 21, 2022 Conference ID: 183-667-515# Regular Council Meeting, November 22, 2022 Conference ID: 209-702-787#

The public is strongly encouraged to sign up to speak on items on this agenda before the start of this meeting on the following links:

For Call to the Public: https://elpasotx.seamlessdocs.com/f/SpeakerSignUpFormPublic

To speak on Agenda Items: https://elpasotx.seamlessdocs.com/f/SpeakerSignUpFormItem

A quorum of City Council must participate in the meeting.

### ROLL CALL

### INVOCATION BY EL PASO POLICE, FIRE AND MINISTRY COORDINATOR FOR THE SHERIFF'S OFFICE, CHAPLAIN SAM FARAONE

### PLEDGE OF ALLEGIANCE

### MAYOR'S PROCLAMATIONS

### 7th Annual Veterans Food Drive Month

### **Buy El Paso Day**

### NOTICE TO THE PUBLIC

All matters listed under the CONSENT AGENDA, including those on the Addition to the Agenda, will be considered by City Council to be routine and will be enacted by one motion unless separate discussion is requested by Council Members. Prior to the vote, members of the audience may ask questions regarding items on the consent agenda. When the vote has been taken, if an item has not been called out for separate discussion, the item has been approved. Council may, however, reconsider any item at any time during the meeting.

### CONSENT AGENDA - APPROVAL OF MINUTES:

### Goal 6: Set the Standard for Sound Governance and Fiscal Management

1. Approval of the Minutes of the Regular City Council Meeting of November 8, 2022, the Agenda Review Meeting of November 7, 2022, the Work Session of November 7, 2022, and the Special Meeting of November 16, 2022.

<u>22-1520</u>

### **CONSENT AGENDA - REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:**

2. Excuse Representative Cissy Lizarraga from the November 22, 2022 Regular <u>22-1521</u> City Council Meeting.

### **CONSENT AGENDA - RESOLUTIONS:**

### Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development:

That the City Manager, or designee, is authorized to sign a Lessor's Approval of Assignment on Industrial Site Lease by and between the City of El Paso ("Lessor"), Kalil Bottling Company of El Paso ("Assignor") and Admiral Beverage Corporation ("Assignee"), for the premises described as follows:

Lots 5 & 6, Block 7, El Paso International Airport Tracts, Unit One, City of El Paso, El Paso County, Texas containing 61,564.00 SQ FT, commonly known as 7328 Boeing Drive, El Paso, Texas.

Term: Initial term five (5) years with two (2) options of five (5) years. Rental Fee: 61,564.00 square feet at \$0.5382 = \$33,135.96 per annum or \$2,761.33 per month.

### District 3

Airport, Sam Rodriguez, (915) 212-7301

### Goal 2: Set the Standard for a Safe and Secure City

**4.** The linkage to the Strategic Plan is subsection 2.1- Maintain standing as one of the nation's top safest cities.

A Resolution to request that the Purchasing Director is authorized to notify El Paso Healthcare System, Ltd, dba Las Palmas Del Sol Healthcare that the City is terminating awarded Contract No. 2018-1665R Physical Exams and Drug Testing for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

### All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Police, Chief Gregory K. Allen, (915) 212-4305

**5.** The linkage to the Strategic Plan is subsection: 2.3 - Increase public safety <u>22-1504</u> operational efficiency.

A Resolution to request that the City Manager be authorized to sign an agreement for physical exams, drug screening, and drug and alcohol testing services for the City's Police Department between the City of El Paso ("City")

and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers, contract 2023-0182 Physical Exams and Drug Testing Screening for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$68,797.

#### Contract Variance:

The difference based in comparison to the previous contract for a six-month period is as follows: An increase of \$36,306.85, which represents a 111.75% increase due to higher rates for testing.

This is a Non-Competitive, service contract.

The Purchasing & Strategic Sourcing and the Police Departments recommend award as indicated to Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

#### All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Police, Chief Gregory K. Allen, (915) 212-4302

6. The linkage to the Strategic Plan is subsection 2.3 - Increase Public Safety <u>22-1506</u> Operational Efficiency.

A Resolution to request that the Purchasing Director is authorized to notify El Paso Healthcare System, Ltd, dba Las Palmas Del Sol Healthcare that the City is terminating awarded Contract No. 2018-555R Baseline Physical Exams for Firefighters for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

### **All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Fire, Chief Johnathan P. Killings, (915) 493-5609

### Goal 3: Promote the Visual Image of El Paso

7. That the Solid Waste liens on the attachment posted with this agenda be approved (See Attachment A).
Districts 1, 2, 3, 5, 8 Environmental Services, Ellen A. Smyth, (915) 212-6000
8. A Resolution that pursuant to Title 3, Chapter 3.04, Section 3.04.035-Exemption-Historically Significant Sites of the El Paso City Code, the property owner (Michael Hwang) of property described as 124 Government Hill N 1/2 of 70 to 74 (8783 Sq Ft), in the City of El Paso, El Paso County, Texas, commonly known as 4768 Caples Circle is hereby exempt from any increase in the City's portion of the ad valorem taxes on the value of the improvement for a

period of ten (10) years beginning on January 1, 2023 and ending December

31, 2032, provided that all City Code requirements are met.

**District 2** 

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Providencia Velazquez, (915) 212-1567

# Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

9. That the closure of rights-of-way within the City of El Paso for the Sun Bowl 22-1501 Thanksgiving Day Parade & Turkey Trot from 3:00 a.m. to 2:00 p.m. on Thursday, November 24, 2022, serves a public purpose of providing cultural and recreational activities for the residents and visitors of the City of El Paso, and in accordance with 43 TAC, Section 22.12, the City Manager be authorized to sign an Agreement For The Temporary Closure of State Right Of Way (Form TEA 30A) by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the temporary closure and use of State owned and operated street(s) in excess of four hours for portions of Copia St. between La Luz Ave. and Tularosa Ave. upon the issuance of required permits from the City of El Paso and substantial conformity to the finalized TEA30 agreement between the City of El Paso and State of Texas Department of Transportation. Applicant: Sun Bowl Association, CSEV22-00103

### Districts 2 and 8

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Armida R. Martinez, (915) 212-1605

### Goal 6: Set the Standard for Sound Governance and Fiscal Management

**10.** Approve a Resolution to update the Debt Management Policy for the City of El22-1495Paso.

### **All Districts**

Office of the Comptroller, Margarita Munoz, (915) 212-1174

### Goal 7: Enhance and Sustain El Paso's Infrastructure Network

11. That the City Manager, or designee, is authorized to sign an Advance Funding Agreement by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation ("Department"), for the design, construction, and installation of Intelligent Transportation Systems (ITS) at the Bridge of the Americas (BOTA) and Zaragoza International Ports of Entry ("Project"). The Project has an estimated total project cost of \$18,000,000.00. The Department will pay \$17,904,000.00 from the Texas Mobility Fund ("TMF") to the Local Government for a portion of the Project. The Department's direct cost is an estimated amount of \$96,000.00, which is the balance between the payment from the TMF and the total project cost. Further, that the City Manager, or designee, is authorized to sign all documents, agreement amendments, and perform all actions required to carry out the obligations of the

City under this agreement.

### All Districts

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

### **CONSENT AGENDA - APPLICATIONS FOR TAX REFUNDS:**

### **Goal 6: Set the Standard for Sound Governance and Fiscal Management**

**12.** That the tax refunds listed on the attachment posted with this agenda be approved. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments greater than \$2,500.00. (See Attachment B)

<u>22-1509</u>

### All Districts

Tax Office, Maria O. Pasillas, (915) 212-1737

### **CONSENT AGENDA - NOTICE OF CAMPAIGN CONTRIBUTIONS:**

# Goal 5: Promote Transparent and Consistent Communication Amongst All Members of the Community

For notation pursuant to Section 2.92.080 of the City Code, receipt of campaign contributions of five hundred dollars or greater by Representative Isabel Salcido in the amounts of \$1,000.00 by Edward Saab, \$1,038.73 by William Correa, \$5,000.00 by El Paso Association of Contractors and \$750.00 by El Paso Electric Employee Political Action Committee.

Members of the City Council, Representative Isabel Salcido, (915) 212-0005

For notation pursuant to Section 2.92.080 of the City Code, receipt of the following campaign contributions by City Representative Claudia L. Rodriguez, District 6: \$5,000.00 from Woody & Gale Hunt; \$2,000.00 from Bobby Bowling;
 \$750.00 from El Paso Electric Employee Political Action Committee; \$1,000.00 from Edward Saab; \$100.00 from Joe Quiñones.

Members of the City Council, Representative Claudia L. Rodriguez, (915) 212-0006

### CONSENT AGENDA - REQUESTS TO ISSUE PURCHASE ORDERS:

### Goal 2: Set the Standard for a Safe and Secure City

**15.** This linkage to Strategic Plan is subsection 2.3 - Expand investment in public <u>22-1491</u> safety operations.

Request that the Director of Purchasing & Strategic Sourcing be authorized to issue a Purchase Order to Bazaar Uniforms and Men's Store, LLC, referencing Contract 2019-1053 Police Uniforms (RE-BID). This change order

is to increase the contract by \$250,000.00 for a total amount not to exceed \$1,250,000.00. The change order will cover additional expenses for Police Uniforms for the duration of the contract term, August 31, 2024.

Contract Variance: No contract variance

Department:	Police
Award to:	Bazaar Uniforms and Men's Store, LLC
	El Paso, TX
Total Estimated Amount:	\$250,000.00
Account No.:	321-531200-21090-1000
Funding Source:	General Fund
District(s):	All

### **All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Police, Chief Gregory Allen, (915) 212-4305

### Goal 7: Enhance and Sustain El Paso's Infrastructure Network

**16.** The linkage to the Strategic Plan is Subsection 7.2 - Improve Competitiveness <u>22-1502</u> Through Infrastructure Improvements Impacting the Quality of Life.

Award Summary:

The award of Solicitation 2023-0158 Uninterrupted Power Supply Equipment Maintenance to Gruber Power Services, for a term of three (3) years for an estimated amount of \$112,560.00. This contract will allow for the maintenance of uninterrupted power supply equipment at various City locations.

Contract Variance: NA

Department:	Streets and Maintenance
Award to:	Gruber Power Services
	Phoenix, AZ
Initial Term:	3 Years
Annual Estimated Award:	\$37,520.00
Total Estimated Award:	\$112,560.00 (3 Years)
Funding Source:	532 - 1000 - 522260 - 31040 - P3120
District(s):	All

This is a Non-Competitive, service contract.

The Purchasing & Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Gruber Power Services.

### All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Streets and Maintenance, Richard J. Bristol, (915) 212-7000

### **REGULAR AGENDA - MEMBERS OF THE CITY COUNCIL**

### Goal 2: Set the Standard for a Safe and Secure City

17.	Discussion and action to adopt the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism.	<u>22-1528</u>
	All Districts Members of the City Council, Representative Peter Svarzbein, (915) 212-1002	
	4: Enhance El Paso's Quality of Life through Recreational, Cultural and Education onments	al
18.	Discussion and action to recognize Rabbi Stephen Leon for his leadership at Congregation B'nai Zion as well as teaching and providing information to the citizens of El Paso for more than three decades about the descendants of the families expelled during the Spanish Inquisition who now live in our community and are known as the Anusim.	<u>22-1525</u>
	All Districts Members of the City Council, Representative Peter Svarzbein, (915) 212-1002	
19.	Discussion and action on a Resolution that the City of El Paso honors and recognizes the late War Captain Javier Loera for his leadership and passion and sends its condolences to the Ysleta del Sur Pueblo for the loss of War Captain Javier Loera.	<u>22-1529</u>
	All Districts Members of the City Council, Representative Henry Rivera, (915) 212-0007	
	<b>REGULAR AGENDA - OPERATIONAL FOCUS UPDATES</b>	
Goal	6: Set the Standard for Sound Governance and Fiscal Management	
20.	Budget Update.	<u>22-1511</u>
	<b>All Districts</b> City Manager's Office, K. Nicole Cote, (915) 212-1092	
Goal	7: Enhance and Sustain El Paso's Infrastructure Network	
21.	Presentation and discussion on the Neighborhood Traffic Management Program (NTMP). [POSTPONED FROM 11-08-2022]	<u>22-1429</u>
	All Districts	

Streets and Maintenance, Olivia Montalvo-Patrick, (915) 212-1875

22. Discussion and action on coordination regarding Frontera Road congestion. <u>22-1513</u>

### District 1

Capital Improvement Department, Joaquin Rodriguez, (915) 212-0065

### Goal 8: Nurture and Promote a Healthy, Sustainable Community

23. Presentation and discussion on El Paso Animal Services Best Practices. <u>22-1496</u>

### All Districts

Animal Services Department, Terry Kebschull, (915) 212-8742

### CALL TO THE PUBLIC – PUBLIC COMMENT:

Call to the Public will begin at 12:00 p.m. Requests to speak must be received by 9:00 a.m. on the date of the meeting. Sixty minutes in total will be devoted for Call to the Public. This time is reserved for members of the public who would like to address the City Council on items that are not on the City Council Agenda.

Members of the public may communicate with Council during public comment, and regarding agenda items by calling 1-915-213-4096 or toll free number 1-833-664-9267 at the prompt please enter the following Conference ID: 209-702-787#

A sign-up form is available on line for those who wish to sign up in advance of the meeting at: https://elpasotx.seamlessdocs.com/f/SpeakerSignUpFormPublic

### **REGULAR AGENDA - FIRST READING OF ORDINANCES:**

# INTRODUCTION OF ORDINANCES PURSUANT TO SECTION 3.9 OF THE EL PASO CITY CHARTER:

# Public comment typically is not taken during the first reading of ordinances. Public comments are invited at the date of the scheduled public hearing.

Public Hearings will be held as part of the regular City Council meeting that begins at approximately 9:00 a.m. All interested persons present shall have an opportunity to be heard at that time. After the public hearings, Council may also delay taking action on Ordinances; no requirement is made by Section 3.9B of the El Paso City Charter to publish any further notice. Copies of all Ordinances are available for review in the City Clerk's office, 300 N. Campbell, Monday through Thursday, 7:00 a.m. to 6:00 p.m.

### Goal 2: Set the Standard for a Safe and Secure City

24. An Ordinance amending Title 13 (Streets, Sidewalks and Public Places), Chapter 13.34 (Picketing), Section 13.34.020 (Notice of Intent to Picket) to add exceptions and spontaneous events; Chapter 13.34 (Picketing), Section

<u>22-1507</u>

13.34.030 (Receipt of Notification) to delete and reserve; Chapter 13.34 (Picketing), Section 13.34.050 (Violation) to delete and reserve; Chapter 13.36 (Parades and Public Assemblies) to amend chapter title to 'Parades;' Chapter 13.36 (Parades and Public Assemblies), Section 13.36.010 (Definitions) to delete 'Demonstration' and 'Public Assembly' from definitions; Chapter 13.36 (Parades and Public Assemblies), Section 13.36.020 (Permit Required) to add spontaneous event exception; Chapter 13.36 (Parades and Public Assemblies), Section 13.36.020 (Definitions; Chapter 13.36 (Parades and Public Assemblies), Section 13.36.020 (Definitions; Chapter 13.36 (Parades and Public Assemblies), Section 13.36.100 (Violation - Penalty) to remove the term 'Public Assembly from violations; Chapter 13.38 (Special Events), Section 13.38.020 (Definitions) to remove Picketing, Demonstrating, Parades, and Public Assembly from the definition of 'Special Events;' the penalty as provided in Section 13.36.100 and 13.38.110 of the City Code.

### **All Districts**

Police, Assistant Chief Peter Pacillas, (915) 212-4302

### PUBLIC HEARING WILL BE HELD ON DECEMBER 6, 2022

### Goal 3: Promote the Visual Image of El Paso

25.	An Ordinance terminating the Sign Design non-exclusive franchise for waste containers on sidewalks and other City property.	<u>22-1479</u>
	All Districts Environmental Services, Ellen A. Smyth, (915) 212-6000	
	PUBLIC HEARING WILL BE HELD ON DECEMBER 6, 2022	
26.	An Ordinance granting to Tyler Lyon El Paso Street Ads, LLC a non-exclusive franchise for waste containers on sidewalks and other City property.	<u>22-1476</u>
	<b>All Districts</b> Environmental Services, Ellen A. Smyth, (915) 212-6000	
	PUBLIC HEARING WILL BE HELD ON DECEMBER 6, 2022	
27.	An Ordinance granting to Ruben Torres d/b/a Elite Advertising a non-exclusive franchise for waste containers on sidewalks and other City property.	<u>22-1478</u>
	All Districts Environmental Services, Ellen A. Smyth, (915) 212-6000	
	PUBLIC HEARING WILL BE HELD ON DECEMBER 6, 2022	
28.	An Ordinance granting Special Permit No. PZST21-00013, to allow for parking spaces serving another property and reduction of lot size on the property described as a portion of Tract 1-B-3-A-2, and a portion of Tract 1-U-1, Block 5, Ascarate Grant, City of El Paso, El Paso County, Texas, pursuant to Section 20.04.320 of the El Paso City Code. The penalty being as provided in Chapter 20.24 of the El Paso City Code.	<u>22-1490</u>
	The proposed special permit meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.	

Subject Property: 7750 Gateway East Blvd. Applicant: Banes General Contractors, PZST21-00013

### **District 3**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Luis Zamora, (915) 212-1552

### PUBLIC HEARING WILL BE HELD ON DECEMBER 13, 2022

**29.** An Ordinance changing the zoning of Lot 2, Block 1, Jeff's Subdivision, 8835 Neptune Street, City of El Paso, El Paso County, Texas from R-4 (Residential) to A-2 (Apartment). The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 8835 Neptune Street Applicant: George R. and Avaavau T. Buckingham - PZRZ22-00029

### District 2

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Andrew Salloum, (915) 212-1603

### PUBLIC HEARING WILL BE HELD ON DECEMBER 13, 2022

30. An Ordinance changing the zoning of Tracts 1, 7A, 19A, and portions of Tracts 11,12,13,14,15,16, and 17, Block 53, Ysleta Grant and portions of Tracts 12A, 13A, 14B, and 15A, Socorro Grant Block 24, 10001 Southside Road, City of El Paso, El Paso County, Texas from R-F (Ranch and Farm) to M-2 (Heavy Manufacturing). The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 10001 Southside Road Applicant: El Paso Water - PZRZ22-00031

### **District 7**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Andrew Salloum, (915) 212-1603

### PUBLIC HEARING WILL BE HELD ON DECEMBER 13, 2022

**31.** An Ordinance changing the zoning of the south 60 feet of tract 187 and the south 60 feet of the east 90 feet of tract 188, map of Sunrise Acres, City of El Paso, El Paso County, Texas from R-4 (Residential) and C-2 (Commercial) to C-3 (Commercial) and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

<u>22-1494</u>

22-1492

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 8641 Gateway South Boulevard Applicant: R-Avilo, LLC PZRZ22-00019

### **District 2**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Nina Rodriguez, (915) 212-1561

### PUBLIC HEARING WILL BE HELD ON DECEMBER 13, 2022

**32.** An Ordinance changing the zoning for the property described as Lot 135, Sunrise Acres #2, 4645 Vulcan Avenue, City of El Paso, El Paso County, Texas from R-4 (Residential) to A-O (Apartment/Office) and imposing a condition. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. <u>22-1497</u>

22-1505

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 4645 Vulcan Avenue Applicant: Aguilar Pedro M. & Morales Francisca, PZRZ22-00023

#### District 2

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Saul Pina, (915) 212-1612

### PUBLIC HEARING WILL BE HELD ON DECEMBER 13, 2022

### **REGULAR AGENDA – OTHER BIDS, CONTRACTS, PROCUREMENTS:**

### Goal 2: Set the Standard for a Safe and Secure City

**33.** The linkage to the Strategic Plan is subsection: 2.3 - Increase public safety operational efficiency.

Discussion and action on the request that the City Manager be authorized to sign an agreement to provide baseline physical exams services for the City's Fire Department between the City of El Paso ("City") and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers; contract 2023-0183 Baseline Physical Exams for Firefighters for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$645,862.50.

### Contract Variance:

The difference based in comparison to the previous contract for a six-month period is as follows: An increase of \$285,951.96, which represents a 79.45% increase due to higher rates for testing.

This is a Non-Competitive, service contract.

The Purchasing & Strategic Sourcing and the Fire Departments recommend award as indicated to Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

### All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Fire, Chief Jonathan P. Killings, (915) 493-5609

### Goal 3: Promote the Visual Image of El Paso

34. Discussion and action that the City Manager be authorized to sign an Agreement for Professional Services by and between the City of El Paso and Stantec Consulting Services Inc. for a project known as Deck Plaza Feasibility Study Urban Planning and Engineering Services for an amount not to exceed \$1,321,785.00 and that the City Engineer is authorized to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and to approve Additional Services for an amount not to exceed \$50,000.00 if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount of \$1,421,785 and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.

### **District 8**

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

### Goal 7: Enhance and Sustain El Paso's Infrastructure Network

**35.** The linkage to the Strategic Plan is subsection 7.5 - Set One Standard for <u>22-1498</u> Infrastructure Across the City.

### Award Summary:

Discussion and action on the award of Solicitation 2022-0724 Automotive Fuel -Diesel to Rio Valley Biofuels, LLC for an initial three (3) year term for an estimated amount of \$9,600,000.00. The award also includes a two (2) year option for an estimated amount of \$6,400,000.00. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$16,000,000.00. This contract will allow deliveries of diesel fuel for the Fleet Division.

### Contract Variance:

The difference based in comparison to the previous contract is as follows: An increase of \$144,723.00 for the initial term, which represents a 1.53% increase due to increased fuel prices.

### <u>22-1512</u>

Department:	Streets and Maintenance
Award to:	Rio Valley Biofuels, LLC
	El Paso, TX
Item(s):	All
Initial Term:	3 Years
Option to Extend:	2 Years
Annual Estimated Award:	\$3,200,000.00
Initial Term Estimated Award:	\$9,600,000.00
Total Estimated Award:	\$16,000,000.00
Account No:	532 - 3600 - 531240 - 37020 - P3701
Funding Source:	Internal Service Fund
District(s):	All

This is a Best Value contract.

The Purchasing & Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Rio Valley Biofuels, LLC, the bidder offering the best value bid.

In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

### All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Streets and Maintenance, Richard J. Bristol, (915) 212-7000

### **REGULAR AGENDA – PUBLIC HEARINGS AND SECOND READING OF ORDINANCES:**

**36.** Discussion and action on the award of Task Order 11 for Solicitation 2021-0811, Greater El Paso Landfill Truck Scale Replacement to Veliz Construction for a total estimated award of \$830,919.18.

<u>22-1517</u>

### All Districts

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

### Goal 3: Promote the Visual Image of El Paso

37. An Ordinance changing the zoning of Lots 1 through 16, Block 36, East El Paso, 3200 and 3230 Durazno Avenue, City of El Paso, El Paso County, Texas from M-1 (Light Manufacturing) to G-MU (General Mixed Use) and approving a master zoning plan. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 3200 and 3230 Durazno Ave. Applicant: Spaghetti Bowl Properties, LLC, PZRZ22-00025

### **District 8**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Luis Zamora, (915) 212-1552

### **REGULAR AGENDA - OTHER BUSINESS:**

### Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development

38.	Discussion and action on a Resolution that the City Manager be authorized to sign an amendment to a Chapter 380 Economic Development Program Agreement ("Agreement") by and between the CITY OF EL PASO, TEXAS and 1 TEXAS TOWER, LLC and HOTEL DULCINEA, LLC to support and facilitate the development of a hotel, which includes the redevelopment, rehabilitation and improvement of the downtown building commonly known as the Texas Tower, located at 109 North Oregon Street, El Paso, Texas 79901. The amendment requires the Applicant to make a minimum investment of \$20 million.	<u>22-1516</u>
	<b>District 8</b> Economic and International Development, Karina Brasgalla, (915) 212-1570 Economic and International Development, Elizabeth Triggs, (915) 212-0094	
39.	Discussion and action on a Resolution of the City Council of the City of El Paso nominating El Paso Healthcare System, Ltd.(Las Palmas Medical Center) as a Texas State Enterprise Zone Project. If designated, El Paso Healthcare System, Ltd will invest over \$6 million to update the primary surgery unit, cardiology department, and nursing department at its Las Palmas Medical Center facility located at 1801 North Oregon St., El Paso, Texas 79902; and retain 503 full-time positions and create an additional 10 fulltime positions at that location over the term of the project's designation.	<u>22-1515</u>
	<b>District 8</b> Economic and International Development, Bill Allen, (915) 212-1619 Economic and International Development, Elizabeth Triggs, (915) 212-1619	
40.	Discussion and action requesting City Council support for the staff recommended project selected to submit for the FY 2022 Federal Railroad Administration (FRA) Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grant Program.	<u>22-1518</u>
	<b>District 7</b> Economic and International Development, Karina Brasgalla, (915) 212-1570 Capital Improvement, Yvette Hernandez, (915) 212-1860	
Goal 6	6: Set the Standard for Sound Governance and Fiscal Management	
41.	Discussion and action on the application of Texas Gas Service Company, A Division of ONE Gas Inc., to Increase Gas Utility Rates within the City of El Paso.	<u>22-1510</u>
	All Districts	

### City Attorney's Office, Donald Davie, (915) 212-0033

### EXECUTIVE SESSION

The City Council of the City of El Paso may retire into EXECUTIVE SESSION pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Chapter 551, Subchapter D, to discuss any of the following: (The items listed below are matters of the sort routinely discussed in Executive Session, but the City Council of the City of El Paso may move to Executive Session any of the items on this agenda, consistent with the terms of the Open Meetings Act and the Rules of City Council.) The City Council will return to open session to take any final action and may also, at any time during the meeting, bring forward any of the following items for public discussion, as appropriate.

- Section 551.071 CONSULTATION WITH ATTORNEY
- Section 551.072 DELIBERATION REGARDING REAL PROPERTY
- Section 551.073 DELIBERATION REGARDING PROSPECTIVE GIFTS
- Section 551.074 PERSONNEL MATTERS
- Section 551.076 DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS
- Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS
- Section 551.089 DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS; CLOSED MEETING

### ADJOURN

### NOTICE TO THE PUBLIC:

Sign Language interpreters are provided for regular City Council meetings. If you need Spanish Interpreter Services, you must email CityClerk@elpasotexas.gov at least 72 hours in advance of the meeting.

# ALL REGULAR CITY COUNCIL AGENDAS ARE PLACED ON THE INTERNET ON THURSDAY PRIOR TO THE MEETING AT THE ADDRESS BELOW:

http://www.elpasotexas.gov/



Legislation Text

File #: 22-1520, Version: 1

# CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts City Clerk's Office, Laura D. Prine, (915) 212-0049

### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Approval of the Minutes of the Regular City Council Meeting of November 8, 2022, the Agenda Review Meeting of November 7, 2022, the Work Session of November 7, 2022, and the Special Meeting of November 16, 2022.

OSCAR LEESER MAYOR

**TOMMY GONZALEZ** 

CITY MANAGER



CITY COUNCIL PETER SVARZBEIN, DISTRICT 1 Alexsandra Annello, District 2 Cassandra Hernandez, District 3

Joe Molinar, District 4 Isabel Salcido, District 5 Claudia L. Rodriguez, District 6 Henry Rivera, District 7

CISSY LIZARRAGA, DISTRICT 8

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## MINUTES FOR REGULAR COUNCIL MEETING

November 8, 2022 COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY 9:00 AM

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### ROLL CALL

The City Council of the City of El Paso met on the above time and date. Meeting was called to order at 9:06 a.m. Mayor Oscar Leeser present and presiding and the following Council Members answered roll call: Peter Svarzbein, Alexsandra Annello, Cassandra Hernandez, and Cissy Lizarraga. Late arrivals: Isabel Salcido at 9:22 a.m., Claudia Rodriguez at 9:24 a.m., and Henry Rivera at 9:25 a.m. Joe Molinar requested to be excused from this meeting. The invocation was given by Police Chaplain and El Paso Police Chaplain Joe Maratta followed by the Pledge of Allegiance to the Flag of the United States of America.

# INVOCATION BY EL PASO POLICE CHAPLAIN JOE MARATTA

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### PLEDGE OF ALLEGIANCE

# MAYOR'S PROCLAMATIONS

Veterans Day

Dave's A Pawn Shop Day

Border Youth Athletic Association's Academic Achievement Day

### NOTICE TO THE PUBLIC

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and unanimously carried to **APPROVE, AS REVISED** all matters listed under the Consent Agenda unless otherwise noted. (Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {\*}.

AYES: Representatives Svarzbein, Annello, Hernandez, and Lizarraga NAYS: None NOT PRESENT FOR THE VOTE: Representatives Salcido, Rodriguez, and Rivera ABSENT: Representative Molinar

# CONSENT AGENDA - APPROVAL OF MINUTES:

### Goal 6: Set the Standard for Sound Governance and Fiscal Management

..... \*Motion made, seconded, and unanimously carried to APPROVE the Minutes of the Regular 1. City Council Meeting of October 25, 2022, the Agenda Review Meeting of October 24, 2022, the Work Session of October 24, 2022, and the Work Session of February 1, 2021.

..... CONSENT AGENDA - REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:

#### \_\_\_\_\_\_ **REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:** 2.

\*Motion made, seconded, and unanimously carried to **EXCUSE** Representative Joe Molinar from the Regular City Council Meeting of Tuesday, November 8, 2022.

### ..... **CONSENT AGENDA - RESOLUTIONS:**

..... Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development

..... 3.

#### \*RESOLUTION

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

That the City Manager be authorized to sign a Temporary Land Use Lease by and between the City of El Paso ("Lessor") and ASC Technical Institute, LLC ("Lessee") regarding the following described property:

A portion of Lot 4, Block 1-C, El Paso International Airport Tracts, City of El Paso, El Paso County, Texas consisting of 53,295 square feet of land and site improvements, municipally known and numbered as 6535 De Havilland, El Paso, Texas.

4.

### \*RESOLUTION

.....

WHEREAS, the City of El Paso routinely submits grant applications and similar documents in search of funding and to engage with organizations committed to supporting small business initiatives: and

WHEREAS, these business initiatives are intended to provide opportunities to assist recovery from financial losses and while enhancing the city's entrepreneurial and small business ecosystem; and

WHEREAS, the City Council of the City of El Paso supports policies, programs, and practices that embed racial equity and aim to increase revenue and employment for Black, Indigenous, and People of Color (BIPOC); and minority and women led businesses as a means to close the wealth gap; and

**WHEREAS**, the El Paso the Metropolitan Statistical Area, as of February 22, 2021, experienced a total small business revenue decrease by 24% compared to January 2020 and 83% of El Paso businesses have fewer than 20 employees; and

WHEREAS, the City Council of the City of El Paso is committed to implementing equitable policies, programs, and practices to support entrepreneurship-led economic growth in our community;

# NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

**THAT**, in order to facilitate the timely and efficient submission of letters of support and other documents and/or efforts; the Economic and International Development Department of the City of El Paso will notify and coordinate with the Mayor and City Manager upon requesting Letters of Support from the City Council of the City of El Paso for small business initiatives and projects which conform with the intent of this Resolution; and

**THAT**, the Mayor of the City of El Paso is authorized to sign a Letter of Support on behalf of the City Council to engage with organizations committed to the support of small business and in conformity with this Resolution, provided the initiative or project does not conflict with City programmatic priorities; to include but not be limited to the entities listed below:

- International Economic Development Council (IEDC)
- National League of Cities (NLC)
- The Aspen Institute Latinos & Society

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Goal 3: Promote the Visual Image of El Paso

5.

### \*RESOLUTION

### A RESOLUTION APPROVING A DETAILED SITE DEVELOPMENT PLAN FOR ALL OF LOTS 9 THROUGH 16, BLOCK 47, AND A PORTION OF SAN JOSE STREET, THIRD AMENDED MAP OF HIGHLAND PARK ADDITION, 1360 N. COTTON STREET, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.04.150. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, SCENIC VIEW TOWNHOMES LLC, (the "Owner") has applied for approval of a detailed site development plan which requires City Plan Commission and City Council approval as per section 20.04.150. The detailed site development plan is subject to the development standards in the A-2/SC (APARTMENT/SPECIAL CONTRACT) **District** regulations and subject to the approved Detailed Site Development Plan signed by the Applicant, the City Manager and the Executive Secretary to the City Plan Commission. A copy of this plan is attached hereto as **Exhibit "B"**\*\* and is incorporated herein by reference for all purposes; and,

**WHEREAS**, a report was made by the staff to the City Plan Commission and a public hearing was held regarding such application;

**WHEREAS,** the City Plan Commission has approved and herein recommends Council approval of the subject detailed site development plan; and

**WHEREAS**, the City Council finds that the detailed site development plan meets all applicable requirements of the El Paso City Code:

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

1. Pursuant to requirements, the City Council hereby approves the detailed site development plan submitted by the Applicant, to **permit an apartment** as required under the **A-2/sc (Apartment/special contract)** District as per Section **20.04.150**, on the following described

property which is located in a A-2/sc (Apartment/special contract) District: All of Lots 9 through 16, Block 47, and a portion of San Jose Street, Third Amended Map of Highland Park Addition, 1360 N. Cotton Street, City of El Paso, El Paso County, Texas, and more particularly described in the attached metes and bounds as Exhibit "A"\*\*.

2. A copy of the approved detailed site development plan, signed by the Applicant, the City Manager and the Secretary of the City Plan Commission, is attached hereto, as **Exhibit "B"**\*\* and incorporated herein by reference.

3. All construction and development on the property shall be done in accordance with the approved detailed site development plan and the development standards applicable in the A-2/SC (APARTMENT/SPECIAL CONTRACT) District regulations.

4. The Applicant shall sign an agreement to develop the property and to perform all construction thereon in accordance with the approved detailed site development plan and the standards applicable in the A-2/SC (APARTMENT/SPECIAL CONTRACT) District. Such agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.

5. This approval shall be void if construction on the property is not started in accordance with the approved detailed site development plan within four (4) years from the date hereof.

\*\*Exhibits available at the City Clerk's Office.

Goal 6: Set the Standard for Sound Governance and Fiscal Management 6. \*R E S O L U T I O N

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

That the Guidelines for the City Employees Charitable Campaign be adopted, designating the United Way of El Paso County as the Local Campaign Manager, and designating the City's Human Resources Director or designee to act as the liaison to work with the Local Campaign Manager in the administration of the campaign.

Goal 8: Nurture and Promote a Healthy, Sustainable Community

### \*RESOLUTION

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

**THAT** the City Manager or designee be authorized to sign a Professional Services Agreement between Best Friends Animal Society ("Best Friends"), a Utah nonprofit corporation and the City of El Paso to support the City of El Paso Animal Shelter in achieving a minimum of ninety percent (90%) live release rate, for a total of \$63,000 payable to Best Friends to be divided equally into twelve equal monthly payments by the City of El Paso, for a term of twelve (12) months with monthly options to extend by mutual written agreement of the Parties.

8.

7.

### \*RESOLUTION

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

That the City Manager be authorized to sign an Agreement for Professional Services by and between the CITY OF EL PASO and Carl Daniel Architects, Inc., a Texas corporation,

for a Project known as **"EL PASO HEALTH DEPARTMENT MCA CLINIC**" for an amount not to exceed **\$384,530.00**; that the City Engineer is authorized to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and to approve Additional Services for an amount not to exceed \$50,000.00 if such services are necessary for the proper execution of the Project and that the increased amounts are within the appropriate budgets of the Project for a total amount of \$484,530.00; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.

9.

### \*RESOLUTION

.....

**WHEREAS**, on December 15, 2020 the City of El Paso ("City") awarded Contract No. 2021-0046 Veterinary Medical Supplies to the following Vendors ("Vendors"):

- 1. Loren Hodges & Sons Inc. dba Longhorn Distribution
- 2. Lambert Vet Supply
- 3. Midwest Veterinary Supply, Inc.
- 4. Manuel Talamantes III dba El Paso Veterinary Supply
- 5. Butler Animal Health Holding Company, LLC dba Covetrus North America

**WHEREAS**, the listed Vendors desire to terminate the Contract without cause and for convenience, pursuant to the provisions and requirements of section 4.1 subsection 8 of the Contract.

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

That the Purchasing & Strategic Sourcing Director is authorized to notify Vendors listed that the City is rescinding awarded Contract No. 2021-0046 Veterinary Medical Supplies, pursuant to the provisions and requirements of the Contract, and that the rescinding shall be effective as of the date this Resolution is approved.

# CONSENT AGENDA – APPLICATIONS FOR TAX REFUNDS

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Goal 6: Set the Standard for Sound Governance and Fiscal Management

- **10.** \*Motion made, seconded, and unanimously carried to **APPROVE** a Tax Refund to El Paso Five Star Homes, Inc. dba Flair Homes Texas, in the amount of \$5,557.05 for an overpayment made on January 30, 2022 of 2021 taxes. (Geo. # C539-999-0100-5900).

# CONSENT AGENDA – NOTICE FOR NOTATION

# Goal 5: Promote Transparent and Consistent Communication Amongst All Members of the Community

11. \*Motion made, seconded, and unanimously carried to ACCEPT the donation of \$ 5,000 from Sierra Machinery to go towards holiday events and initiatives in District 3, to include turkeys for families in need during Thanksgiving and Christmas gifts and grocery gift cards for less-fortunate neighborhoods in the district.

# \*Motion made, seconded, and unanimously carried to ACCEPT the donation of \$1,000 from ZTEX Construction to District 2 for a Halloween event with the Seville Recreation Center.

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### **CONSENT AGENDA – NOTICE OF CAMPAIGN CONTRIBUTIONS**

Goal 5: Promote Transparent and Consistent Communication Amongst All Members of the Community

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 \*Motion made, seconded, and unanimously carried to NOTE pursuant to Section 2.92.080 of the City Code, receipt of the following campaign contributions by City Representative Claudia L. Rodriguez, District 6: \$250.00 from Rebecca and David Contreras; \$5000.00 from Woody Hunt; \$1000.00 from Lorna Escobar; \$1000.00 from Ben Ivey.

.....

14. \*Motion made, seconded, and unanimously carried to NOTE pursuant to Section 2.92.080 of the City Code, receipt of campaign contributions of five hundred dollars or greater by Representative Isabel Salcido in the amounts of \$2,500.00 by Richard Aguilar and \$2,000.00 by TREPAC/Texas Association of Realtors Political Action Committee.

### CONSENT AGENDA – REQUESTS TO ISSUE PURCHASE ORDERS:

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Goal 7: Enhance and Sustain El Paso's Infrastructure Network

15. \*Motion made, seconded, and unanimously carried to AWARD Solicitation 2023-0209 On Call Median Maintenance to Border TM Industries, Inc. dba Xceed Resources for 2023-0209 On Call Median Maintenance, for a term of one (1) year for an estimated amount of \$300,000.00. This contract will allow the on-call maintenance of City medians.

Contract Variance: N/A

Department:	Environmental Services
Award to:	Border TM Industries, Inc. dba Xceed Resources
	El Paso, TX
Initial Term:	1 year
Annual Estimated Amount:	\$300,000.00
Total Estimated Award:	\$300,000.00 (1 year)
Account No.:	532 - 2305 - 522210 - 32120 - P3215
Funding Source:	Environmental Fee Fund
District(s):	All

This is a Non-Competitive, service contract.

The Purchasing & Strategic Sourcing and Environmental Services Departments recommend award as indicated to Border TM Industries, Inc. dba Xceed Resources.

### CONSENT AGENDA – BEST VALUE PROCUREMENTS:

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Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development

16. \*Motion made, seconded, and unanimously carried to AUTHORIZE the Director of Purchasing & Strategic Sourcing Department to issue a Purchase Order to Ace Government Services referencing Contract 2017-1079 Janitorial Services - International Bridges. This will be a change order to increase the contract by \$62,848.00 for a total amount not to exceed \$691,336.00, The change order will cover expenses for the remainder of the contract term, February 28, 2023.

Contract Variance: No contract variance

International Bridges
Ace Government Services, LLC
El Paso, TX
\$62,848.00
522060-564-3300-64830
Maintenance Service Contract - Janitorial
All

This is a Best Value, services contract.

# REGULAR AGENDA – MEMBERS OF THE CITY COUNCIL:

Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

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17.

#### RESOLUTION

Marathon Petroleum Company: Refinery Veterans Network Day

WHEREAS, a group of passionate employees at Marathon Petroleum Company (MPC), El Paso refinery, formally started a network chapter in support of the company's veteran employees. Open to all employees regardless of their veteran status, the chapter provides a forum for members to discuss their experiences, perspectives, and the challenges that veterans and their families face; and

**WHEREAS,** Marathon Petroleum Company, El Paso refinery is excited to start a veteran employee network chapter. Our veterans have made infinite sacrifices for our country, and it's a privilege for us to be able to support them in this capacity; and

WHEREAS, the employee network allows the company to continue to build strong relationships in the community. Marathon Petroleum Company, El Paso refinery looks forward to serving the El Paso community through volunteerism and partnering with local organizations that support veteran causes; and

**WHEREAS,** in 2019 Marathon Petroleum Company formally launched the Veteran's Network along with five other employee network chapters across the company, which includes Asian, African American, Hispanic, LGBTQ+, and Women Network; and

**WHEREAS**, diversity and inclusion are important to the refinery, and they strive to promote a workplace that champions inclusive behaviors across our entire business and the community as a whole;

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

That the City of El Paso proudly honors and recognizes this November 11th as Marathon Petroleum Company and the creation of Refinery Veterans Network Day.

Representative Hernandez read the resolution into the record.

Mr. Kirk Smith, citizen, commented.

Mayor Leeser and Representative Hernandez commented.

### 1<sup>ST</sup> MOTION

\*Motion made, seconded, and unanimously carried to move the item to the **FOREFRONT** of the Regular agenda.

### 2<sup>ND</sup> AND FINAL MOTION

Motion made by Representative Hernandez, seconded by Representative Svarzbein, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, and Lizarraga NAYS: None NOT PRESENT FOR THE VOTE: Representatives Rodriguez and Rivera ABSENT: Representative Molinar

18. RESOLUTION

**WHEREAS**, we are here today to recognize and honor La Parada, the founders, and all of the community members that have contributed to more than twelve years of bringing people together to celebrate our local arts and culture; and

**WHEREAS**, La Parada was founded in 2010 with the inspiration to create a space for El Paso to showcase the talent our bi-national community has to share and welcome artists and fans from throughout the country; and

**WHEREAS**, La Parada has since organized over 100 shows featuring more than 400 artists and musicians from El Paso and beyond our borders and shared memories with tens of thousands of local fans; and

**WHEREAS**, La Parada has showcased not only the talent our city has cultivated but shined light on our great city and the people who make El Paso such a special place to guests who have traveled to be with us; and

**WHEREAS**, it serves a municipal purpose to recognize the contribution to the community, providing art and cultural opportunities to the residents and visitors to the City.

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

That November 8, 2022 shall be known as, "La Parada Day."

Representative Svarzbein read the resolution into the record.

Mr. Anthony Flores, organizer for La Parada, commented.

### 1<sup>ST</sup> MOTION

\*Motion made, seconded, and unanimously carried to move the item to the **FOREFRONT** of the Regular agenda.

### 2<sup>ND</sup> AND FINAL MOTION

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Lizarraga, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Molinar

### Goal 7: Enhance and Sustain El Paso's Infrastructure Network

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**19. ITEM:** Discussion and action to direct staff to return with strategies for implementation of Sustainable Development Goals (SDG) within performing and resilience framework.

Representatives Svarzbein and Annello commented.

The following City staff members commented:

- 1. Ms. Nicole Ferrini, Community and Human Development Director
- 2. Mr. Abraham Gutierrez, Community and Human Development Assistant Director

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and unanimously carried to **DIRECT** staff to return with strategies for implementation of Sustainable Development Goals (SDG) within performing and resilience framework no later than the work session of December 12, 2022.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Molinar

Goal 8: Nurture and Promote a Healthy, Sustainable Community

20.

RESOLUTION

**WHEREAS,** Cheer Force Athletics, LLC. (**CFA**), a local cheerleading team was established in October of 2018, by a local mom, Esther Melendez a born and raised Latina in the City of El Paso wanting to give back to the young kids within her community; and

**WHEREAS**, the City of El Paso Parks and Recreation Department first recognized the natural leadership skills in coach Esther and asked her to volunteer her time to develop a cheerleading city team at Marty Robbin's Recreation Center; and

**WHEREAS,** at the time of its establishment Cheer Force was a team of one class with 12 young athletes with the passion to cheer, and quickly grew to six classes with over 100 athletes, outgrowing the space available at the city recreation center, and

WHEREAS, Cheer Force quickly grew to a high caliber, competitive degree, where parents of team athletes, soon began to invest in the team's performance level, by accommodating team members with uniforms, and competition fees, placing the team in a position to compete with local and regional teams with the same exceptional reputation of performance; and

**WHEREAS,** in February 2022, Cheer Force's Team Fierce composed of 12 11-18 year old's, competed at the UTEP Cheer Championship against 42 other teams from El Paso Texas, Las Cruces New Mexico, and Albuquerque New Mexico.; and

WHEREAS, Team Fierce which includes team members, Cassandra Melendez, Alexis

Angeles, Alan Gonzalez, Ashley Payan, Alexa Candelaria, Cherlyn Hernandez, Lluvia Marin, Kiley Zapata, Ebony Ibarra, Amaris Valdez, Olivia Sanchez, and Emeliy Smolick, won Grand Champions and were invited to represent the City of El Paso in this year's Macy's Thanksgiving Day Parade in New York City!

# NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF EL PASO:

- 1. Recognizes the talents of these young athletes in the City of El Paso; and
- 2. Thanks community leaders like Esther Melendez for investing her time in giving back to our community by coaching and motivating the future leaders of El Paso; and
- 3. Congratulates Team Fierce from CFA in proudly representing the City of El Paso at this year's annual Macy's Thanksgiving Day Parade in New York City. You all have made your city proud!

Representative Rodriguez read the resolution into the record.

Mayor Leeser commented.

Ms. Esther Melendez, owner and founder of Cheer Force Athletics, commented.

### **1<sup>ST</sup> MOTION**

\*Motion made, seconded, and unanimously carried to move the item to the **FOREFRONT** of the Regular agenda.

#### 2<sup>ND</sup> AND FINAL MOTION

Motion made by Representative Rodriguez, seconded by Representative Salcido, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Molinar

The Regular City Council meeting was **RECESSED** at 9:35 a.m. in order to take photos with the honorees.

The Regular City Council meeting was **RECONVENED** at 9:52 a.m.

**21. ITEM:** Discussion and action to establish a landbank strategy and infill incentive program for affordable housing.

Representative Svarzbein commented.

Ms. Nicole Ferrini, Community and Human Development Director, commented.

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Lizarraga, and unanimously carried to **DIRECT** City of El Paso staff to establish a landbank strategy and infill incentive program for affordable housing and to reach out to private and public sectors and stakeholders.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None ABSENT: Representative Molinar

The Regular City Council Meeting was **RECESSED** at 10:27 a.m. in order to convene the Mass Transit Board Meeting.

The Regular City Council Meeting was **RECONVENED** at 10:35 a.m.

# REGULAR AGENDA – OPERATIONAL FOCUS UPDATES

Goal 3: Promote the Visual Image of El Paso

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**22.** Update on Median Maintenance.

Mr. Nicholas Ybarra, Environmental Services Department Assistant Director, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Leeser and Representative Hernandez commented.

Mr. Tommy Gonzalez, City Manager, commented.

NO ACTION was taken on this item.

Goal 8: Nurture and Promote a Healthy, Sustainable Community

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**23.** Presentation and discussion on El Paso Animal Services Medical Operations.

Chief Terry Kebschull, Animal Services Director, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Leeser and Representative Hernandez commented.

NO ACTION was taken on this item.

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Goal 7: Enhance and Sustain El Paso's infrastructure Network

**24.** Presentation and discussion on Pavement Condition Index (PCI) results.

\*Motion made, seconded, and unanimously carried to **DELETE** the item.

**25.** Presentation and discussion on the Neighborhood Traffic Management Program (NTMP).

\*Motion made, seconded, and unanimously carried to **POSTPONE** the presentation for **TWO WEEKS**.

CALL TO THE PUBLIC – PUBLIC COMMENT:

The following members of the public commented:

- 1. Ms. Wally Cech
- 2. Mr. Ron Comeau

3. Ms. Regena Miller – statement read into the record by the City Clerk

# REGULAR AGENDA – FIRST READING OF ORDINANCES:

Motion made by Representative Annello, seconded by Representative Rivera, and unanimously carried that the following Ordinances, having been introduced pursuant to Section 3.9 of the El Paso City Charter, be **ADVERTISED** for public hearing:

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None

ABSENT: Representative Molinar

Goal 3: Promote the Visual Image of El Paso

26. An Ordinance changing the zoning of Lots 25 through 32, Block 15, Highland Park Subdivision, City of El Paso, El Paso County, Texas from R-5 (Residential) to A-O (Apartment/Office). The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: South of Detroit Avenue and East of Murchison Drive Applicant: T.J. Karam, PZRZ22-00028

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27. An Ordinance changing the zoning of the South 27 feet of Lots 30, 31, and 32, in Block 100, East El Paso, 1112 N. San Marcial Street, City of El Paso, El Paso County, Texas from R-5 (Residential) to G-MU (General Mixed Use), and approving a master zoning plan. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 1112 N. San Marcial Street Applicant: Buck Money Johnston and Brian Campbell Bosworth, PZRZ22-00022

PUBLIC HEARING WILL BE HELD ON DECEMBER 6, 2022 FOR ITEMS 26 AND 27

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### **REGULAR AGENDA – OTHER BIDS, CONTRACTS, PROCUREMENTS:**

Goal 2: Set the Standard for a Safe and Secure City

28. Motion made by Representative Rivera, seconded by Representative Salcido, and unanimously carried to AUTHORIZE the Director of the Purchasing and Strategic Sourcing Department to issue a Purchase Order(s) to Texas Commission on Fire Protection (TCFP). Texas Commission on Fire Protection is a State Agency and the sole source for the TCFP certification in order to comply with the requirements under the Texas Administrative Code Title 37; Part 13; Chapter 421; Rule 421.17.

Contract Variance:

The difference in price, based on comparison to the previous contract is as follows: An increase of \$5,550.00 for the annual estimated amount, which represents an 8.45% increase due to the number of uniformed employees increased.

Department:	Fire
Award to:	Texas Commission on Fire Protection
Austin, TX	
Annual Estimated Amount:	\$71,250.00
Funding Source:	Professional Licenses and Memberships
Account No.:	322-1000-22020-544140-P2221
Districts(s):	All
Reference No.:	2023-0118

This is a Sole Source, requirements contract.

AYES: Representatives Svarzbein, Annello, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None NOT PRESENT FOR THE VOTE: Representative Hernandez ABSENT: Representative Molinar

Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational

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29.

#### RESOLUTION

**WHEREAS**, the City seeks to promote healthy outdoor recreational activity to the citizens and visitors of El Paso through the use of its City parks; and

**WHEREAS,** Western Refining Company, LLC (Western) wishes to donate, construct and install park amenities and landscaping features, at Western's sole cost, in accordance with the City's design specifications to be used at the Marina Rios Park; and

**WHEREAS**, the City and Western are mutually desirous of entering into the Use, Construction, and Donation Agreement for the benefit of the public;

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

That the City Manager, or designee be authorized to sign a Use, Construction, and Donation Agreement for improvements at Marina Rios Park by and between the City of El Paso, Texas and Western Refining Company LLC.

Mayor Leeser and Representatives Svarzbein and Hernandez commented.

Mr. Fred Borrego, citizen, commented.

Motion made by Representative Hernandez, seconded by Representative Annello, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Molinar

# Goal 7: Enhance and Sustain El Paso's Infrastructure Network

 Motion made by Representative Rivera, seconded by Representative Rodriguez, and unanimously carried to AWARD Solicitation 2022-0403 Padilla Street Reconstruction to ZTEX CONSTRUCTION, INC. for an estimated total amount of \$3,007,588.00. The project scope

consists of reconstructing Padilla Dr. from Playa Drain to Zaragoza Rd. Construction improvements include the demolition of concrete, asphaltic pavement, curb, hardscape, landscaping, sanitary sewer improvements, adjustment to existing vehicular gates, and upgrade of existing street signage.

Department:	Capital Improvement
Award to:	ZTEX CONSTRUCTION, INC.
	El Paso, TX
Item(s):	Base Bid I and Deductive Alternate 1, Base Bid
	II, and Base Bid III
Initial Term:	300 Consecutive Calendar Days
Base Bid I and Deductive Alternate 1:	\$2,069,321.40
Base Bid II:	\$466,619.60
Base Bid III:	\$471,647.00
Total Estimated Award:	\$3,007,588.00
Funding Source:	2013 Street Infrastructure and El Paso Water
-	Utilities Funding
Accounts:	190-4740-580270-28900-PCP20ST006
	190-4970-580270-38230-PCP20ST006
District(s):	7

This is a Competitive Sealed Proposal, unit price contract.

The Purchasing & Strategic Sourcing and Capital Improvement Departments recommend award as indicated to ZTEX CONSTRUCTION, INC. the highest ranked offeror.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

AYES: Representatives Svarzbein, Annello, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None NOT PRESENT FOR THE VOTE: Representative Hernandez ABSENT: Representative Molinar

Goal 8: Nurture and Promote a Healthy, Sustainable Community

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31.

### RESOLUTION

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

That the City Manager be authorized to sign a two-year On-Call Agreement for Professional Services to perform environmental services on a task by task basis by and between the by City of El Paso and each of the following three (3) consultants:

- 1. Arcadis US Inc.
- 2. Souder Miller & Associates, Inc.
- 3. WSP USA Environment & Infrastructure, Inc.

Each On-Call Agreement will be for an amount not to \$300,000.00, and each agreement will include authorization for the City Engineer to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and authorization for the City Engineer to approve Additional Services for an amount not to exceed \$50,000.00 if the identified services are necessary for proper execution of identified project and if the increased amounts are within the appropriate budget identified of the project for a total amount of \$400,000.00. In addition, the City Manager is authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of each On-Call Agreement.

Representative Annello commented.

Mr. Jerry DeMuro, Capital Improvement Assistant Director, commented.

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Lizarraga, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annello, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None NOT PRESENT FOR THE VOTE: Representative Hernandez ABSENT: Representative Molinar

**32.** Motion made by Representative Rivera, seconded by Representative Lizarraga, and unanimously carried to **AWARD** Solicitation No. 2022-0850 Veterinary Medical Supplies (Re-Bid III) to Manuel Talamantes, III dba El Paso Veterinary Supply and Steris Corporation dba Hu-Friedy Mfg. Co. LLC, for an initial term of three (3) years for an estimated amount of \$1,153,238.58. This contract will allow Animal Services to procure surgical, medications, antibiotics, test kits and other medical supplies needed for animals in their care.

#### Contract Variance:

The difference in price based on comparison to the previous contract is as follows: An increase of \$379,571.61 for the initial term, which represents a 49.06% increase due to quantity and price increases.

Department:	Animal Services
Vendor # 1:	Manuel Talamantes, III dba El Paso Veterinary Supply El Paso, TX
Item(s):	Group I (Items 1-4, 7, 9-58, 61-81 and 83)
	Group II (Items 1-9, 12-31, 34-62, 64-73 and 75-96)
Initial Term:	3 years
Annual Estimated Award:	\$383,086.18
Total Estimated Award:	\$1,149,258.54 (3 years)
Vendor # 2:	Steris Corporation dba Hu-Friedy Mfg. Co. LLC Chicago, IL
Item(s):	Group II (Items 10, 11 and 32)
Initial Term:	3 years
Annual Estimated Award:	\$1,326.68
Total Estimated Award:	\$3,980.04 (3 years)

Total Annual Amount:\$384,412.86 (2 Vendors)Total Estimated Award:\$1,153,238.58 (3 years) (2 Vendors)Account No.:Non-Federal FundsFunding Source:225-2580-25120-531120District(s):All

This is a low bid, unit price contract.

The Purchasing & Strategic Sourcing and Animal Services Departments recommend award as indicated to Manuel Talamantes, III dba El Paso Veterinary Supply and Steris Corporation dba Hu-Friedy Mfg. Co. LLC, the lowest, responsive and responsible bidders.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None

**ABSENT: Representative Molinar** 

REGULAR AGENDA – PUBLIC HEARINGS AND SECOND READING OF ORDINANCES:

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Goal 3: Promote the Visual Image of El Paso

33.

#### ORDINANCE 019399

The City Clerk read an Ordinance entitled: AN ORDINANCE CHANGING THE ZONING OF THE PROPERTY DESCRIBED AS LOT 3, BLOCK 42, MAGOFFIN ADDITION, 815 TAYS STREET, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM A-3 (APARTMENT) AND C-1 (COMMERCIAL) TO S-D (SPECIAL DEVELOPMENT), PURSUANT TO SECTION 20.04.360, AND APPROVING A DETAILED SITE DEVELOPMENT PLAN PURSUANT TO SECTION 20.04.150 AND 20.10.360 OF THE EL PASO CITY CODE TO ALLOW FOR AN OFFICE AND DISTRICT AREA, FRONT YARD SETBACK AND SIDE YARD SETBACK REDUCTIONS AS PERMITTED IN THE S-D (SPECIAL DEVELOPMENT) ZONE DISTRICT. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

THE PROPOSED REZONING MEETS THE INTENT OF THE FUTURE LAND USE DESIGNATION FOR THE PROPERTY AND IS IN ACCORDANCE WITH PLAN EL PASO, THE CITY'S COMPREHENSIVE PLAN.

Motion duly made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Rodriguez, and carried that the Ordinance be **ADOPTED**.

Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None

ABSENT: Representative Molinar

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

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34.

### ORDINANCE 019400

The City Clerk read an Ordinance entitled: AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST22-00008, TO ALLOW FOR PARKING SPACES (SERVING ANOTHER ROPERTY) ON THE PROPERTY DESCRIBED AS TRACT 6-B AND 18-B, BLOCK 4, UPPER VALLEY SURVEYS, 5020 COUNTRY CLUB PLACE, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.04.260 OF THE EL PASO CITY CODE. THE PENALTY BEING AS PROVIDED IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

### THE PROPOSED SPECIAL PERMIT MEETS THE INTENT OF THE FUTURE LAND USE DESIGNATION FOR THE PROPERTY AND IS IN ACCORDANCE WITH PLAN EL PASO, THE CITY'S COMPREHENSIVE PLAN.

Motion duly made by Mayor Pro Tempore Svarzbein, seconded by Representative Rodriguez, and carried that the Ordinance be **ADOPTED**.

Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None ABSENT: Representative Molinar

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

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### ITEMS 35 AND 36 WERE TAKEN TOGETHER

#### 35.

#### **ORDINANCE 019401**

The City Clerk read an Ordinance entitled: AN ORDINANCE CHANGING THE ZONING OF LOTS 1 AND 2, BLOCK 6, HIGHLAND PARK, 1837 GRANDVIEW AVENUE, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-5 (RESIDENTIAL) TO A-O (APARTMENT/OFFICE), AND IMPOSING A CONDITION. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

THE PROPOSED REZONING MEETS THE INTENT OF THE FUTURE LAND USE DESIGNATION FOR THE PROPERTY AND IS IN ACCORDANCE WITH PLAN EL PASO, THE CITY'S COMPREHENSIVE PLAN.

#### 36.

### **ORDINANCE 019402**

The City Clerk read an Ordinance entitled: AN ORDINANCE RELEASING CONDITIONS NO. 2 AND NO. 3 PLACED ON PROPERTY BY ORDINANCE NO. 5193 WHICH CHANGED THE ZONING OF PORTION OF H. F. FISHER SURVEY NO. 293, CITY OF EL PASO, EL PASO COUNTY, TEXAS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

THE PROPOSED CONDITION RELEASE MEETS THE INTENT OF THE FUTURE LAND USE

DESIGNATION FOR THE PROPERTY AND IS IN ACCORDANCE WITH PLAN EL PASO, THE CITY'S COMPREHENSIVE PLAN.

Motion duly made by Alternate Mayor Pro Lizarraga, seconded by Representative Rivera, and carried that the Ordinances be **ADOPTED**.

Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinances which when so done resulted as follows:

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None ABSENT: Representative Molinar

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinances, the same be and the same are hereby **ADOPTED**.

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37. \*Motion made, seconded, and unanimously carried to POSTPONE FOURTEEN WEEKS the public hearing of an Ordinance changing the zoning of a portion of Lots 14 through 26, Block 4, Hughes Subdivision of Block 2, Alameda Acres, 5713 Welch Avenue, City of El Paso, El Paso County, Texas from S-D/sp (Special Development/special permit) to M-1 (Light Manufacturing), and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 5713 Welch Ave. Applicant: Jose Manuel Valenzuela and Maria Del Sol Covarrubias, PZRZ22-00016.

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38.

### ORDINANCE 019403

The City Clerk read an Ordinance entitled: AN ORDINANCE VACATING A 3.81 ACRE PORTION OF THREADGILL AVENUE, RANCHITO AVENUE, ROANOKE AVENUE, RUTLEDGE PLACE, AND ALBANY DRIVE, LOCATED WITHIN LOS RANCHITOS SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS.

APPLICANT: EL PASO WATER UTILITIES - PUBLIC SERVICE BOARD, SURW22-00007

Motion duly made by Representative Rodriguez, seconded by Representative Salcido, and carried that the Ordinance be **ADOPTED**.

Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: Representative Svarzbein ABSENT: Representative Molinar

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

# REGULAR AGENDA – OTHER BUSINESS:

Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development

39.	RESOLUTION

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

That the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement ("Agreement") by and between **CITY OF EL PASO** ("City") and **LEGATE CO TEXAS**, **LLC** ("Applicant") in support of the renovation of a mixed-use building located in the downtown El Paso. The Agreement requires the Applicant to make a minimum investment of \$421,046.

Motion made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Rivera, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None ABSENT: Representative Molinar

### Goal 6: Set the Standard for Sound Governance and Fiscal Management

**40.** Presentation, discussion and action on the FY 2021-2022 4th Quarter Financial Report and to authorize the City Manager or his designee to allocate year-end surplus to the Operating and Debt Stabilization Fund.

Mr. Robert Cortinas, Chief Financial Officer, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Representatives Svarzbein, Annello, Hernandez, and Rivera commented.

Mr. Tommy Gonzalez, City Manager, commented.

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Rivera, and unanimously carried to allocate the FY 2022 General Fund Surplus of \$10,198,677 as follows:

- \$2,549,669, or 25% of surplus, to Operating & Debt Stabilization Fund
- \$7,649,008, or 75% of surplus, to Unassigned reserves

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None ABSENT: Representative Molinar

### Goal 7: Enhance and Sustain El Paso's Infrastructure Network

**41.** Presentation and discussion and action on coordination regarding Frontera Road congestion.

Mayor Leeser and Representatives Svarzbein and Lizarraga commented.

The following City staff members commented:

- Mr. Russell Abeln, Assistant City Attorney
- Ms. Karla Nieman, City Attorney
- Mr. Tommy Gonzalez, City Manager

The following members of the public commented:

- 1. Ms. Barbara Duchouquette
- 2. Mr. Fernando Gomez
- 3. Ms. Susan Martinez

# 1<sup>ST</sup> MOTION

\*Motion made, seconded, and unanimously carried to move the item to the **FOREFRONT** of the Regular agenda.

#### 2<sup>ND</sup> AND FINAL MOTION

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Lizarraga, and unanimously carried to **DIRECT** City staff to return back in two weeks with identifying the cost and process for closure of Frontera Rd. and other roads identified to restrict access from Sunland Park, NM to El Paso, TX along Frontera and collective streets.

To identify costs for a second option relating to right in and right out at the Texas/New Mexico border at La Adelita and Frontera.

Send a notarized letter to the developer, City Manager and Mayor and individuals of City Council members of the City of Sunland Park and other relevant Sunland Park departments notifying them that the City of El Paso is moving forward in the process of identifying cost related to closure of Frontera and surrounding streets and encouraging them to come to conversation with the City of El Paso letting to the public safety, health and welfare of our communities.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera, and Lizarraga NAYS: None ABSENT: Representative Molinar

ABSENT: Representative Molinar

# ADJOURN

Motion made by Representative Annello, seconded by Representative Salcido, and unanimously carried to **ADJOURN** this meeting at 12:35 p.m.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, Rivera and Lizarraga

NAYS: None

ABSENT: Representative Molinar

APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk

OSCAR LEESER Mayor

Tommy Gonzalez City Manager



CITY COUNCIL PETER SVARZBEIN, DISTRICT 1 ALEXSANDRA ANNELLO, DISTRICT 2 CASSANDRA HERNANDEZ, DISTRICT 3 JOE MOLINAR, DISTRICT 4 ISABEL SALCIDO, DISTRICT 5 CLAUDIA L. RODRIGUEZ, DISTRICT 6 HENRY RIVERA, DISTRICT 7 CISSY LIZARRAGA, DISTRICT 8

# AGENDA REVIEW MINUTES COUNCIL CHAMBERS AND VIRTUALLY CITY HALL, 300 N. CAMPBELL November 7, 2022 9:00 A.M.

The City Council met at the above place and date. Meeting was called to order at 9:01 a.m. Mayor Leeser present and presiding. The following Council Members answered roll call: Peter Svarzbein, Alexsandra Annello, Isabel Salcido, Claudia Rodriguez, and Henry Rivera. Late Arrival: Cassandra Hernandez at 9:04 a.m. Joe Molinar and Cissy Lizarraga requested to be excused.

The agenda items for the November 8, 2022 Regular City Council and Mass Transit Board meetings were reviewed.

# 17. <u>REGULAR AGENDA – MEMBERS OF THE CITY COUNCIL</u>

Discussion and action on a Resolution that the City of El Paso proudly honors and recognizes this November 11th as Marathon Petroleum Company and the creation of Refinery Veterans Network Day.

Representative Hernandez commented

# 18. REGULAR AGENDA – MEMBERS OF THE CITY COUNCIL

Discussion and action to recognize the founders of La Parada and all of the community members that have contributed to more than twelve years of bringing people together to celebrate our local arts and culture.

Representative Svarzbein commented.

# 20. REGULAR AGENDA – MEMBERS OF THE CITY COUNCIL

Discussion and action on a Resolution that the City Council recognizes the talents of these young athletes in the City of El Paso at Cheer Force Athletics.

Representative Rodriguez commented.

# 41. <u>REGULAR AGENDA – OTHER BUSINESS</u>

Presentation and discussion and action on coordination regarding Frontera Road congestion.

Representative Svarzbein commented.

Motion made by Representative Rivera, seconded by Representative Salcido, and unanimously carried to **ADJOURN** this meeting at 9:21 a.m.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, and Rivera NAYS: None ABSENT: Representatives Molinar and Lizarraga APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk

OSCAR LEESER Mayor

TOMMY GONZALEZ CITY MANAGER



CITY COUNCIL PETER SVARZBEIN, DISTRICT 1 ALEXSANDRA ANNELLO, DISTRICT 2 CASSANDRA HERNANDEZ, DISTRICT 3 JOE MOLINAR, DISTRICT 4 ISABEL SALCIDO, DISTRICT 5 CLAUDIA L. RODRIGUEZ, DISTRICT 6 HENRY RIVERA, DISTRICT 7 CISSY LIZARRAGA, DISTRICT 8

# CITY COUNCIL WORK SESSION MINUTES NOVEMBER 7, 2022 COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY 9:05 A.M.

The City Council of the City of El Paso met at the above place and date. Meeting was called to order at 9:21 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Peter Svarzbein, Alexsandra Annello, Cassandra Hernandez, Isabel Salcido, Claudia Rodriguez, and Henry Rivera. Joe Molinar and Cissy Lizarraga requested to be excused. Early departure: Claudia Rodriguez at 10:54 a.m.

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# <u>AGENDA</u>

- **1.** Presentation and discussion by the COVID-19 Response and Recovery Cross-Functional Team providing information on key activities, efforts, and processes.
  - 1. Overview (Tommy Gonzalez)

Ms. Tracey Jerome, Senior Deputy City Manager, began the presentation by stating that the number of new COVID-19 cases remained low however she cautioned that the rise in other viruses such as influenza and respiratory syncytial virus (RSV) posed the need to continue taking precautions to prevent severe illness and hospitalizations. She explained that vaccinations were the best protection against COVID-19 and the flu and reminded the public that the City offers vaccinations and boosters free of charge at the City's clinics.

- 2. City Attorney Overview (Karla Nieman)
  - a. State Disaster Declaration
  - b. Emergency Ordinances
  - c. Greg Abbott, in his official capacity as Governor of Texas v. City of El Paso & Statewide Mask Mandate Litigation
  - d. Additional Updates

Ms. Karla Nieman, City Attorney, reported that the State's Disaster Declaration was expected to be renewed on November 18<sup>th</sup> and highlighted the need to renew the local Emergency Ordinances related to the virus. She did not have any updates related to the mask mandate cases pending in the 4<sup>th</sup>, 5<sup>th</sup> and 8<sup>th</sup> Texas Courts of Appeal although she said the Federal Emergency Declaration had been extended for the next 90 days. Ms. Nieman continued by explaining that the Texas Supreme Court had issued the 57<sup>th</sup> Emergency Order allowing courts to conduct remote proceedings until January 1, 2023. She ended her portion of the presentation by

stating that three of the five Municipal Courts were requiring in person attendance and provided an update on trial settings related to COVID-19 currently filed in the Municipal Courts.

- 3. Team Lead Report:
  - a. Health Focus (Hector Ocaranza, M.D.)
    - i. COVID-19 update
    - ii. Monkeypox Update
    - iii. Respiratory Infections Update

Dr. Hector Ocaranza, Public Health Authority, continued the presentation by saying that COVID-19 activity remained low however he said that he was keeping a close eye on the situation as things could change rapidly. Dr. Ocaranza explained that there was a sharp increase in RSV cases as reported by pediatricians and local hospitals and said that Influenza A cases were prominent in the community. To stay ahead of severe illness, he recommended vaccinations against COVID-19 and the flu. Dr. Ocaranza stated that Monkeypox cases remained low Statewide and said that 500 vaccination doses had been administered in the area to individuals considered high risk.

4. City Manager Wrap-up (Tommy Gonzalez)

Ms. Jerome closed out the presentation by saying that the combination of COVID-19, the flu and RSV viruses could present a strain on the healthcare system if there was a surge in cases. She reminded the community to practice good hygiene and seek vaccinations especially with the upcoming holidays and related travel.

Mayor Leeser commented.

NO ACTION was taken on this item.

2.

ITEMS 2 THROUGH 4 WERE TAKEN TOGETHER

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# **ORDINANCE NO. 019395**

## AN EMERGENCY ORDINANCE RE-ENACTING EMERGENCY ORDINANCE NO. 019035 EXTENDING A DISASTER DECLARATION DUE TO A PUBLIC HEALTH EMERGENCY

**WHEREAS**, on March 13, 2020, the Governor of the State of Texas declared a state of disaster and the President of the United States of America declared a national emergency in relation to COVID-19; and

**WHEREAS**, on March 13, 2020, the Mayor signed a Local Emergency Declaration and requested the aid of the State Government pursuant to Texas Government Code Section 418.108; and

WHEREAS, pursuant to El Paso City Code Section 2.48.020(C), a local state of disaster declaration may not be continued or renewed for a period in excess of seven days except by or with the consent of City Council; and

**WHEREAS**, City Charter Section 3.10 allows for the City Council to adopt an emergency ordinance to meet a public emergency affecting life, health, property or the public peace; and

**WHEREAS**, on March 17, 2020, the City Council adopted Emergency Ordinance No. 019035, Extending a Disaster Declaration Due to a Public Health Emergency; and

**WHEREAS**, since March 2020, El Paso City Council has re-enacted Emergency Ordinance No. 019035 monthly, with the most recent re-enactment taking place on October 10, 2022; and

**WHEREAS**, despite local COVID-19 cases continuing to decline, the risk of contracting COVID-19 remains and new variants of the virus are expected to arise; and

**WHEREAS**, as of October 27, 2022, the number of new COVID-19 active cases reported in El Paso is 87 and the cumulative number is 287,624; and

**WHEREAS**, pursuant to City Charter Section 3.10, every emergency ordinance shall stand repealed automatically as of the 31<sup>st</sup> day following the date on which it was adopted, but may be re-enacted to continue a Disaster Declaration; and

**WHEREAS**, Emergency Ordinance No. 019387 which re-enacts Emergency Ordinance No. 019035 is set to expire on November 09, 2022;

**WHEREAS**, the condition necessitating a declaration of a state of disaster continues to exist.

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

- That the state of disaster proclaimed for the City of El Paso by the Mayor on March 13, 2020, and extended by Emergency Ordinance No. 019035, is hereby re-enacted and shall continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by City Council, whichever is sooner.
- 2. This ordinance is adopted as an emergency measure with the unanimous vote of the City Council Representatives present and the consent of the Mayor and pursuant to City Charter Section 3.10.

#### 3.

## ORDINANCE NO. 019396

AN EMERGENCY ORDINANCE RE-ENACTING EMERGENCY ORDINANCE NO. 019036 INSTITUTING EMERGENCY MEASURES, AS RE-ENACTED, RESTATED AND AMENDED BY EMERGENCY ORDINANCE NO. 019151; AND FURTHER RE-ENACTED AND AMENDED BY EMERGENCY ORDINANCE NOS. 019156, 019169, 019191 and 019284; PENALTY AS PROVIDED IN SECTION 8

**WHEREAS**, on March 13, 2020, the Governor of the State of Texas declared a state of disaster and the President of the United States of America declared a national emergency in relation to COVID-19; and

**WHEREAS**, by proclamation issued on March 13, 2020, the Mayor declared a local state of disaster for the City of El Paso resulting from a public health emergency; and

**WHEREAS**, on March 17, 2020, the City Council, pursuant to City Charter Section 3.10, adopted Emergency Ordinance No. 019036 to meet a public emergency affecting life, health, property or the public peace; and

**WHEREAS**, since March 2020, City Council has re-enacted Emergency Ordinance No. 019036 monthly, with the most recent re-enactment, re-statement and amendment taking place on March 16, 2021, and with the most recent re-enactment taking place on October 10, 2022; and

**WHEREAS**, pursuant to City Charter Section 3.10, every emergency ordinance shall stand repealed automatically as of the 31<sup>st</sup> day following the date on which it was adopted, but may be re-enacted if the emergency still exists; and

WHEREAS, a disaster continues to exist and requires that certain emergency measures be taken to meet a public emergency affecting life, health, property or the public peace; and

**WHEREAS**, the City Council desires to re-enact Emergency Ordinance No. 019036, as re-enacted, restated and amended on March 16, 2021 through Emergency Ordinance No. 019151, as further re-enacted and amended on March 29, 2021 through Emergency Ordinance No. 019156, as further re-enacted and amended on April 26, 2021 through Emergency Ordinance No. 019169, as further re-enacted and amended on May 24, 2021 through Emergency Ordinance No. 019191, as further re-enacted and amended on January 31, 2022 through Emergency Ordinance No. 019284, which shall remain in effect for thirty days or until otherwise terminated, re-enacted, or superseded by a conflicting El Paso Local Health Authority order, or state or federal law or order.

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

- 1. Emergency Ordinance No. 019036, as re-enacted, restated and amended by Emergency Ordinance No. 019151, and as further re-enacted and amended by Emergency Ordinance Nos. 019156, 019169, 019191, and 019284, penalty as provided in Section 8, is hereby re-enacted.
- 2. Emergency Ordinance No. 019036, as re-enacted, restated and amended by Emergency Ordinance No. 019151, and further re-enacted and amended by Emergency Ordinance Nos. 019156, 019169, 019191, and 019284, penalty as provided in Section 8, shall remain in full force and effect and continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by the City Council, whichever is sooner.
- 3. This ordinance is adopted as an emergency measure with the unanimous vote of the City Council Representatives present and the consent of the Mayor, pursuant to City Charter Section 3.10.

# 4. AN EMERGENCY ORDINANCE 019397 RE-ENACTING EMERGENCY ORDINANCE NO. 019241; ALLOWING TEMPORARY USES ON THE PUBLIC RIGHT OF WAY AND PRIVATE PROPERTY BY SUSPENDING VARIOUS CITY ORDINANCES; PENALTY AS PROVIDED IN SECTION 6.

**WHEREAS**, on March 13, 2020, the Governor of the State of Texas declared a state of disaster and the President of the United States of America declared a national emergency in relation to COVID-19; and

**WHEREAS**, by proclamation issued on March 13, 2020, the Mayor declared a local state of disaster for the City of El Paso resulting from a public health emergency; and

**WHEREAS**, on March 17, 2020, El Paso City Council adopted Emergency Ordinance No. 019035 extending the City's Disaster Declaration due to a Public Health Emergency; and

**WHEREAS,** since March 2020, El Paso City Council has re-enacted Emergency Ordinance No. 019035, with the most recent re-enactment taking place on October 10, 2022; and

**WHEREAS**, Governor Abbott has similarly renewed the State's COVID- 19 Disaster Declaration, with the most recent extension taking place on October 19, 2022; and

**WHEREAS**, El Paso City Charter Section 3.10 allows City Council to adopt an emergency ordinance to meet a public emergency affecting life, health, property, or the public peace; and

**WHEREAS**, the EI Paso City Council desires to support restaurants and similar establishments in their efforts to safely operate during the COVID-19 pandemic by further facilitating outdoor service and dining opportunities; and

WHEREAS, on October 11, 2021, City Council enacted an Emergency Ordinance Instituting Emergency Measures to Allow Temporary Uses on the Public Right of Way and Private Property by Suspending Various City Ordinances ("Emergency Ordinance No. 019241"); and

**WHEREAS**, pursuant to City Charter Section 3.10, every emergency ordinance shall stand repealed automatically as of the 31st day following the date on which it was adopted, but may be re-enacted if the emergency still exists; and

**WHEREAS**, City Council re-enacted Emergency Ordinance No. 019241, with the most recent re-enaction taking place on October 10, 2022 (Ord. No.019389) ("Re-enacting Ordinance"); and

**WHEREAS**, a disaster continues to exist and requires that certain emergency measures be taken to meet a public emergency affecting life, health, property or the public peace; and

WHEREAS, City Council desires to re-enact its October 11, 2021, Emergency Ordinance No. 019241, which shall take effect immediately, and remain in effect until

December 7, 2022 until otherwise terminated, re-enacted, or superseded by a conflicting El Paso Local Health Authority order, or state or federal law or order.

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

- 1. That Emergency Ordinance No. 019241, is re-enacted and shall remain in full force and continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by the City Council, whichever is sooner;
- 2. This ordinance is adopted as an emergency measure with the unanimous vote of the City Council Representatives present and the consent of the Mayor and pursuant to City Charter Section 3.10.

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and unanimously carried to **ADOPT** the Emergency Ordinances.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, and Rivera NAYS: None ABSENT: Representatives Molinar and Lizarraga **Mayor Leeser consented to the adoption of the Emergency Ordinances.** 

- Formal Report of the Financial Oversight and Audit Committee meeting held on October 20, 2022.
  - 1. Discussion and Action on the Update to the City of El Paso's Debt Policy
  - Motion made by Representative Hernandez, second by Representative Lizarraga and approved by Representative Rivera, Representative Hernandez, Representative Lizarraga and Representative Salcido to accept the Update to the city of El Paso's Debt Policy.
  - 2. Discussion and Action on FY 2021-2022 Audit Plan 4<sup>th</sup> Quarter Updates.
  - Motion made by Representative Lizarraga, seconded by Representative Salcido and approved by Representative Rivera, Representative Hernandez, Representative Lizarraga and Representative Salcido to accept the 4<sup>th</sup> Quarter Update.
  - 3. Discussion and Action on the City of El Paso Internal Audit Charter
  - Motion made by Representative Hernandez, seconded by Representative Lizarraga and approved by Representative Rivera, Representative Hernandez, Representative Lizarraga and Representative Salcido to approve the City of El Paso Internal Audit Charter.
  - 4. Discussion and Action to include an audit or review in the 2022-2023 Audit Plan of the expenditures related to the Migrant Humanitarian Crisis Response.
  - Motion made by Representative Lizarraga, seconded by Representative Salcido and approved by Representative Rivera, Representative Hernandez, Representative Lizarraga and Representative Salcido to approve an audit or review in the 2022-2023 Audit Plan of the expenditures related to the Migrant Humanitarian Crisis Response.
  - 5. Discussion and Action on the FY 2022-2023 Annual Internal Audit Plan

- Motion made by Representative Lizarraga, seconded by Representative Salcido and approved by Representative Rivera. Representative Hernandez. Representative Lizarraga and Representative Salcido to approve the FY 2022-2023 Annual Internal Audit Plan.
- 6. Discussion on Client Surveys.

Mr. Edmundo Calderon, Chief Internal Auditor, provided an overview of on the items discussed during the October 20, 2022 meeting.

**NO ACTION** was taken on this item.

6.

..... **ORDINANCE NO. 019398** 

# AN EMERGENCY ORDINANCE EXTENDING EMERGENCY ORDINANCE NO. 019333 AUTHORIZING THE CITY MANAGER TO ASSIGN PERSONNEL AND RESOURCES TO ASSIST IN ADDRESSING THE HUMANITARIAN AND PUBLIC SAFETY CRISIS **RESULTING FROM A MASS MIGRATION THROUGH EL PASO**

WHEREAS, on May 23, 2022, the Mayor and City Council of the City of El Paso (the "City") passed an Emergency Ordinance No. 019333 "Authorizing the City Manager to Assign Personnel and Resources to Assist in Addressing the Humanitarian and Public Safety Crisis Resulting from a Mass Migration through the City of El Paso"; and

WHEREAS, thousands of migrants from Latin America have already gathered at or near the U.S.- Mexico border in hopes that President Biden will ease immigration restrictions that will make it easier to enter the United States; and

WHEREAS, on April 1, 2022, the Centers for Disease Control and Prevention ("CDC") announced the repeal of the Public Health Services Act, 42 U.S.C. §265 ("Title 42"), which was expected to allow for the inflow of migrants from the southern border; and

WHEREAS, federal litigation ensued to enjoin the CDC from repealing Title 42 on the intended date of May 23, 2022; and

WHEREAS, on June 30, 2022, a United States Supreme Court ruling allowed the President to end the Migrant Protection Protocols, which would allow for the inflow of migrants from the southern border; and

WHEREAS, the Southwest had 207,597 land border encounters in the month of September, 2022; and

WHEREAS, the El Paso sector of CBP had 49,030 land border encounters in the month of September, 2022 and a total of 307,844 encounters for federal fiscal year 2022; and

**WHEREAS**, when the City faced a migrant surge in March of 2019, the Annunciation House, a local non-governmental organization ("NGO"), was able to establish over thirty hospitality sites throughout the El Paso region, versus today's fifteen hospitality sites; and

WHEREAS, the primary challenge is that the NGO does not have the volunteer base to sustain or increase current capacity at its current hospitality sites (ten in El Paso, Texas, three in Las Cruces, New Mexico, one in Deming, New Mexico, and another in Albuquerque, New Mexico); and

WHEREAS, although NGO volunteer recruitment efforts will continue, it is not anticipated that the volunteer base will keep up with the current demand, despite the NGO having identified additional facilities that could receive migrants; and

**WHEREAS,** when the U.S. Customs and Border Protection's ("CBP") Central Processing Center is over capacity and NGO space is unavailable, that is when the potential for street releases arises; and

**WHEREAS,** on May 15, 2022, the federal authorities released 119 single adults on the downtown streets of the City of El Paso; and

WHEREAS, in response to the May 15, 2022, street release, the El Paso City-County Office of Emergency Management ("OEM") reallocated twenty-nine COVID-19 Operations staff to assist as migrant shelter surge staff, and on May 17, 2022, this staff began orientation training at Casa del Refugiado, the NGO's largest hospitality site; and

WHEREAS, OEM has created a job specification, for general disaster operations to include humanitarian relief duties to hire and assign staff to assist with NGO capacity with over 40 staff currently assigned; and

**WHEREAS,** the El Paso City Charter Section 3.10, allows for the adoption of one or more emergency ordinances to meet a public emergency affecting life, health, property, or the public peace; and

**WHEREAS,** Section 121.003 of the Texas Health & Safety Code states that a municipality may enforce any law that is reasonably necessary to protect public health; and

WHEREAS, Section 122.006 of the Texas Health & Safety Code provides home-rule municipalities express authority to adopt rules to protect the health of persons in the municipality, including quarantine rules to protect the residents against communicable disease; and

WHEREAS, OEM continues to provide COVID-19 isolation and quarantine hotel support to migrant shelters, expanding operations when outbreaks occur in congregate shelter facilities; and

**WHEREAS,** OEM has provided isolation and quarantine services to over 2,708 migrants in close coordination with NGOs since April 2020; and

**WHEREAS,** although Title 42 remains in place as a result of the federal litigation, the number of Border Patrol encounters remains high, averaging 1,500 per day; and

WHEREAS, beginning in late August 2022, the El Paso sector experienced a surge of over 2,000 migrants presenting themselves daily to CBP, primarily made up of

unsponsored single adults from Venezuela, resulting in over 1,000 street releases by CBP; and

WHEREAS, due to this high volume, the number of refugees and asylum seekers released to the NGO and the City's Migrant Welcome Center, was over 1,000 on a daily basis; and

**WHEREAS**, on September 7, 2022, the City and OEM stood up a migrant Welcome Center to assist with transportation assistance providing services to over 19,300 migrants through October 20, 2022, and

**WHEREAS**, there was over 40,000 community releases to local NGOs and the City during this period; and

**WHEREAS**, the City's Welcome Center has sponsored 294 charter buses with 13,900 unsponsored migrants aboard to New York City and Chicago as final destinations; and

**WHEREAS**, Sun Metro buses have transported upwards of 4,800 migrants to the El Paso International Airport, bus stations, the Welcome Center, and shelters; and

**WHEREAS**, the City has provided over 39,000 meals to migrants at the local facilities, and for travel aboard the outbound charter buses; and

**WHEREAS**, October 12, 2022, the Department of Homeland Security created a humanitarian immigration pathway giving 24,000 Venezuelan migrants advanced authorization to enter and stay in the country for a period of two years; and

WHEREAS, although the number of Venezuelan migrants has dropped significantly since implementation of the DHS policy, the number of encounters at the border remains high averaging over 1,500 per day and the number of CPB/ICE community releases remains high at 300-600 releases on a daily basis; and

**WHEREAS**, the release of mass groups of people without access to potable water, food, or shelter exposes the migrants and El Paso residents to the origination and spread of potential and actual disease; and

WHEREAS, there are significant public safety and security concerns related to the wave of migration, including but not limited to the risk to injury or loss of life with migrants in El Paso streets with little or no resources on days that reach hot or cold temperatures and the inherent risks that come with increased demand on local shelters; and

**WHEREAS,** for these reasons, the City is faced with the imminent threat of widespread injury or loss of life resulting from a surge in transient migrants traveling to the region during an ongoing global pandemic; and

**WHEREAS**, there is the potential for loss of property for both residents and migrants due to those who would take financial advantage of this wave of migrants; and

**WHEREAS,** the City of El Paso is home to 4 of the 28 international ports of entry between Texas and Mexico; and

**WHEREAS**, based on mass migration events in the recent past, the City anticipates significant delays at the international ports-of-entry to include trade; and

**WHEREAS**, the potential encampment of large groups of migrants on City rights of way and parks poses safety risks to migrants and citizens alike; and

WHEREAS, in awaiting the due support of the federal government, the City finds that the expenditure of public funds for staff to coordinate resources and supplies, serve as shelter surge staff and transport migrants released in the City of El Paso accomplishes a valid public purpose of protecting public infrastructure, and protecting the health, safety and welfare of the citizens of El Paso; and

WHEREAS, in order to protect the health of persons in the municipality, the City Council wishes to continue to assist the local NGO with surge staff, coordination of resources and supplies, and transportation in light of the continued high number of community releases; and

**WHEREAS,** OEM and the City will continue to prepare and evaluate the need for mass emergency sheltering in anticipation of the eventual repeal of Title 42 and other regional migration surges that may impact the El Paso region; and

**WHEREAS,** this Ordinance shall remain in effect until otherwise terminated, reenacted, or superseded by a conflicting ordinance, El Paso Local Health Authority Ordinance, or state or federal law.

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

- That the Emergency Ordinance No. 019333 passed and adopted by the City Council of the City of El Paso on May 23, 2022 is hereby re-enacted and shall continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by City Council, whichever is sooner.
- 2. This ordinance is adopted as an emergency measure with the unanimous vote of the City Council Representatives present and the consent of the Mayor and pursuant to City Charter Section 3.10.

Motion made by Representative Annello, seconded by Representative Hernandez, and unanimously carried to **ADOPT** the Emergency Ordinance.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, Rodriguez, and Rivera NAYS: None

ABSENT: Representatives Molinar and Lizarraga

Mayor Leeser consented to the adoption of the Emergency Ordinance.

# RESOLUTION

 <sup>7.</sup> ITEM: Presentation, discussion and action by the City Manager's Office and Office of Emergency Management providing information on key activities, efforts, and processes

related to the migrant crisis.

**WHEREAS**, on May 19, 2022 the Mayor of the City of El Paso issued an Emergency Ordinance due to a new wave of migration through the City of El Paso ("Ordinance 019333"); and

**WHEREAS**, on September 1, 2022, the City entered into Agreement 2023-0231 Migrant Meals ("Agreement") with the Salvation Army to provide food services for migrants; and

**WHEREAS**, the Agreement was executed under the authority of Emergency Ordinance 019333, § 252.022(a)(1) of the Texas Local Government Code, and § 252.022(a)(2) of the Texas Local Government Code; and

**WHEREAS**, as of October 15, 2022 the City has expended \$57,776 under the 2023-0231 Migrant Meals Agreement; and

**WHEREAS**, the parties now desire that City Council ratify the expenditure of \$57,776 associated with 2023-0231 Migrant Meals and to amend the term of the Agreement to a total of (15) months, and increasing the total amount of the Agreement to not exceed \$100,000 from September 1, 2022 to December 31, 2023.

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

That the City Council ratify the expenditure of \$57,776 associated with the 2023-0231 Migrant Meals Agreement with the Salvation Army for food services; to amend the term of the Agreement for a total of (15) months; and to increase the total amount of the Agreement to not exceed \$100,000. This agreement will provide food for migrants as needed.

Ms. Tracey Jerome, Senior Deputy City Manager, introduced the item.

The following staff members presented a PowerPoint presentation (copy on file in the City Clerk's Office) and responded to questions.

- Assistant Fire Chief Jorge Rodriguez
- Ms. Nicole Cote, Managing Director of Office of Management and Budget and Purchasing and Strategic Sourcing
- Retired Fire Chief Mario D'Agostino, Deputy City Manager of Public Safety

Some of the highlights in the presentation included the increase of 700+ migrants crossing into the City on a daily basis with over 21,000 migrant crossings during the month of October and the continuation of collaborative efforts with community partners to assist with the mass migration situation.

Mayor Leeser and Representative Svarzbein commented.

Motion made by Representative Annello, seconded by Representative Svarzbein, and carried to **APPROVE** the Resolution

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, and Rivera NAYS: Representative Rodriguez

ABSENT: Representatives Molinar and Lizarrada

#### ..... RESOLUTION

8.

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

**THAT** the Mayor of El Paso be authorized to sign a Memorandum of Understanding with the City of Juárez, Chihuahua, México, FSX, LLC and its subsidiary, Transbordador de Carga, to explore the development and implementation of a new technology for the movement of cargo through the port of Ysleta-Zaragoza. Further, that the City Manager, or designee, is authorized to exercise all rights under the memorandum, perform all obligations under the memorandum, and sign any amendments to the memorandum.

Mr. David Coronado, Managing Director, International Bridges and Economic Development Departments, presented a PowerPoint presentation (copy on file in the City Clerk's Office) and responded to questions.

Dr. Stephen Roop, Chief Executive Officer, Freight Shuttle Xpress (FSX), commented.

Mayor Leeser and Representatives Svarzbein, Annello, Hernandez, Rodriguez, and Rivera commented.

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Rivera, and carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annello, Hernandez, and Rivera NAYS: Representative Rodriguez NOT PRESENT FOR THE VOTE: Representative Salcido ABSENT: Representatives Molinar and Lizarrada

..... Discussion and action on the City of El Paso's Legislative Agenda for the 88<sup>th</sup> Regular 9. Session of the Texas State Legislature.

Ms. Lindsey Adams, Legislative Liaison, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Ms. Guadalupe Cuellar Legislative Attorney, commented.

Representatives Svarzbein and Rivera commented.

Motion made by Representative Annello, seconded by Representative Svarzbein, and unanimously carried to **APPROVE** the additions to the City of El Paso's State Legislative Agenda for the Texas 88<sup>th</sup> Legislative Session as presented by City Staff.

- Add Affordable Housing Section:
  - Support legislation that prioritizes viable/feasible transactions for 4% Low Income Housing Tax Credit (LIHTC) Applications.
  - **Support** legislation that would repeal the two mile/same year rule for low 0 income housing tax credits or allow municipalities to approve a waiver of the rule.

- **Support** legislation that would limit Housing Finance Corporations to operate only within the municipal city limits.
- Add to Transportation Section:
  - **Support** expanded uses of the State Highway Fund to support multimodal transportation projects for urban communities.
  - Support legislation that allows municipalities to reduce the prima facie speed limit on residential streets to 25 MPH without having to perform an engineering or traffic investigation.

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, and Rivera NAYS: None NOT PRESENT: Representative Rodriguez ABSENT: Representatives Molinar and Lizarraga

# EXECUTIVE SESSION

Motion made by Representative Annello, seconded by Representative Salcido, and carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 11:23 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.089 to discuss the executive session items:

Section 551.071 CONSULTATION WITH ATTORNEY

AYES: Representatives Svarzbein, Annello, Hernandez, Salcido, and Rivera NAYS: None NOT PRESENT FOR THE VOTE: Representative Rodriguez ABSENT: Representatives Molinar and Lizarraga

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Hernandez, and unanimously carried to **ADJOURN** the Executive Session at 12:28 p.m. and **RECONVENE** the meeting of the City Council. at which time a motion was made:

AYES: Representatives Svarzbein, Hernandez, Salcido, and Rivera NAYS: None NOT PRESENT FOR THE VOTE: Representatives Annello and Rodriguez ABSENT: Representatives Molinar and Lizarraga

**EX1.** Claim of Norma Alvarado. Matter No. 22-1036-3634 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Rivera, and carried that the City Attorney's Office, in consultation with the City Manager, be authorized to **DENY** the claim of Norma Alvarado in Matter Number 22-1036-3634, in its entirety.

AYES: Representatives Hernandez, Salcido, and Rivera NAYS: Representative Svarzbein NOT PRESENT FOR THE VOTE: Representatives Annello and Rodriguez ABSENT: Representatives Molinar and Lizarraga

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**EX2.** Texas Gas Service Company, A Division of One Gas Inc., Application to Increase Gas Utility Rates. Matter No. 22-1008-198 (551.071)

**NO ACTION** was taken on this item.

EX3. Application of El Paso Electric Company to Change Rates to Open Access Transmission Tariff. Federal Energy Regulatory Commission (FERC); Docket No. ER22-282-000. Matter No. 21-1008-183 (551.071)

NO ACTION was taken on this item.

EX4. Application of El Paso Electric Company to Change Rates. Public Utility Commission of Texas Docket No. 52195. Matter No. 21-1008-174 (551.071)

**NO ACTION** was taken on this item.

# ADJOURN

Motion made by Representative Salcido seconded by Representative Hernandez and unanimously carried to **ADJOURN** the meeting at 12:30: p.m.

AYES: Representatives Svarzbein, Hernandez, Salcido, and Rivera. NAYS: None NOT PRESENT FOR THE VOTE: Representatives Annello and Rodriguez. ABSENT: Representatives Molinar and Lizarraga

.....

APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk

**OSCAR LEESER** MAYOR

TOMMY GONZALEZ

CITY MANAGER

**CITY COUNCIL** PETER SVARZBEIN, DISTRICT 1 ALEXSANDRA ANNELLO, DISTRICT 2 CASSANDRA HERNANDEZ, DISTRICT 3 JOE MOLINAR, DISTRICT 4 **ISABEL SALCIDO, DISTRICT 5** CLAUDIA L. RODRIGUEZ, DISTRICT 6 HENRY RIVERA, DISTRICT 7 CISSY LIZARRAGA, DISTRICT 8

# SPECIAL CITY COUNCIL MEETING MINUTES CITY HALL, 300 N. CAMPBELL COUNCIL CHAMBERS AND VIRTUAL **NOVEMBER 16, 2022** 2:00 PM

The City Council of the City of El Paso met at the above place and date. Meeting was called to order at 2:00 p.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Alexsandra Annello, Joe Molinar, Claudia Rodriguez, Henry Rivera, and Cissy Lizarraga. Peter Svarzbein and Cassandra Hernandez requested to be excused. Isabel Salcido was absent. The Pledge of Allegiance to the United States of America was recited.

# ..... AGENDA

1.

# ..... **RESOLUTION CANVASSING RETURNS OF THE 2022 GENERAL ELECTION FOR** DISTRICTS 1, 5, 6, 8, AND MUNICIPAL **COURT JUDGE FOR COURT NO. 4**

WHEREAS, the City Council of the City of El Paso called for the 2022 General Election to be held in said City on November 8, 2022, to fill the expired terms of four District Representatives from Single-Member District Nos. 1, 5, 6, and 8 and Municipal Court Judge for Court No. 4 for the terms as established by and in accordance with the Charter of the City of El Paso and the Laws of the State of Texas; and

WHEREAS, the election officers who held said election have duly made returns of the results thereof, and said returns have been duly delivered to said City Council.

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

1. That the City Council officially finds and determines that said election was duly given, that proper notice of said election was duly given, that proper election officers were duly appointed prior to said election, that said election was duly held, that due returns of the results of said election have been duly made and delivered, that the election returns have properly been made out and fully certified by the officers of said election in the different voting precincts of the City, and that the City Council had duly canvassed said returns, all in accordance with law and the resolution and amendments thereto calling said election.

2. That the City Council officially finds and determines that the following votes were cast at said election for the following officers by the resident, qualified electors of said City, who voted at the election:

DISTRICT	
Dave Jones Brian Kennedy Analisa Cordova Silverstein Freddy Klayel Avalos Deliris Montanez Berrios "DMB" Lauren Ferris Erin Tague	1,356 8,760 5,389 1,211 994 2,614 903
DISTRICT 5	
Isabel Salcido Richard Genera Felix J. Munoz	7,080 2,097 1,886
DISTRICT 6	
Claudia Lizette Rodriguez Benjamin J. Leyva Christian Botello Art Fierro	7,194 1,405 3,089 5,096
DISTRICT 8	
Bettina Olivares Chris Canales Richard Wright Write-In Cruz Morales Jr.	<u>5,707</u> <u>4,947</u> <u>3,698</u> <u>73</u> 76
Write-In Not Assigned	
JUDGE, MUNICIPAL COURT NO. 4	
	04 705

DISTRICT 1

Enrique Holguin

# 3. That in the case of the offices of Representative District Nos. 1, 6 and 8, no person received more than 50% majority of all votes cast for the candidates for such offices, and accordingly no one for these offices is declared elected and a runoff election is to be called by the City Council in accordance with the Texas Election Code; and that the number of votes cast for each person who was a candidate for such offices, according to the returns, is shown in paragraph 2 hereof.

94,795

4. That in the case of the following offices, the following persons who received more than a 50% majority of the votes cast for candidates for such offices are hereby declared elected to such

# NOVEMBER 16, 2022 Page 3

offices for the ensuing terms, or until the election and qualification of their successors, subject to the proper issuance of certificates of election by the presiding officer, and that the number of votes cast for each person who was a candidate for such offices, according to the returns, is shown in paragraph 2 hereof:

# **DISTRICT REPRESENTATIVE NO. 5**

Isabel Salcido

# JUDGE, MUNICIPAL COURT NO. 4

Enrique Holguin

- 5. That on file in the City Clerk's Office and made a part hereof by reference are copies of the mechanical precinct tabulations of the votes cast at the 2022 City General Election showing the number of votes cast in each precinct for each candidate.
- 6. That this Resolution is adopted subject to the right of any candidate to contest such election in any way provided by law.
- 7. That this Resolution was acted upon in accordance with the law by the presiding officer and the City Council and was deemed by said City Council that upon passage of the Resolution, it shall take effect immediately.
- 8. This Resolution shall be spread upon the minutes of the City Council, and the City Clerk shall record the amendments so adopted in the separate book kept in her office for such purpose.

Motion made by Representative Rivera, seconded by Representative Molinar and unanimously carried to **APPROVE** the Resolution

AYES: Representatives Annello, Molinar, Rodriguez, Rivera and Lizarraga NAYS: None ABSENT: Representatives Svarzbein, Hernandez and Salcido.

2. A RESOLUTION CANVASSING THE RETURNS AND DECLARING THE RESULTS OF A BOND ELECTION; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City Council (the "Council") of the City of El Paso, Texas (the "City") previously ordered an election to be held on November 8, 2022 for the purpose of determining whether the resident, qualified voters of the City would authorize the issuance of general obligation bonds by the City; and

WHEREAS, it is hereby found and determined that notice of the election was duly given in the form, manner and time required by law, and such election was in all respects legally held and conducted in accordance with applicable laws of the State of Texas and the proceedings calling and governing the holding of such election; and

**WHEREAS**, the Council hereby canvasses the returns of this election, at which there was submitted to all resident, qualified voters of the City for their action thereupon, the following proposition:

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# NOVEMBER 16, 2022 Page 4

## **CITY OF EL PASO. TEXAS PROPOSITION A**

"SHALL the City Council of the City of El Paso, Texas, be authorized to issue general obligation bonds of the City in the principal amount of \$246,480,000 for permanent public improvements and public purposes, to wit: designing, acquiring, constructing, improving, resurfacing, repairing, extending, expanding, and enhancing streets, thoroughfares, alleys, sidewalks, bridges, streetscapes, screening walls, and other public ways, participation in joint projects with federal, state and local public entities and agencies, computerized signalization and monitoring equipment and other traffic controls, grade separations, street lighting, necessary or incidental utility relocation, associated drainage improvements and acquiring land, easements, rights-of-way, and other real property interests necessary therefor; such bonds to mature serially or otherwise over a period not to exceed forty (40) years from their date, to be issued and sold in one or more series at any price or prices and to bear interest at any rate or rates (fixed, floating, variable or otherwise) as shall be determined within the discretion of the City Council at the time of issuance or sale of the bonds; and whether ad valorem taxes shall be levied upon all taxable property in the City sufficient to pay the annual interest and provide a sinking fund to pay the bonds at maturity and the cost of any credit agreements executed in connection with the bonds?"

# **CITY OF EL PASO. TEXAS PROPOSITION B**

"SHALL the City Council of the City of El Paso, Texas, be authorized to issue general obligation bonds of the City in the principal amount of \$20,800,000 for permanent public improvements and public purposes, to wit: designing, acquiring, constructing, improving, renovating, repairing, extending, expanding, enhancing, furnishing, and equipping park and recreational facilities, including all abilities playgrounds, shade structures, and open spaces and acquiring land, easements, rights-of-way, and other real property interests necessary therefor; such bonds to mature serially or otherwise over a period not to exceed forty (40) years from their date, to be issued and sold in one or more series at any price or prices and to bear interest at any rate or rates (fixed, floating, variable or otherwise) as shall be determined within the discretion of the City at the time of issuance or sale of the bonds; and whether ad valorem taxes shall be levied upon all taxable property in the City sufficient to pay the annual interest and provide a sinking fund to pay the bonds at maturity and the cost of any credit agreements executed in connection with the bonds?"

# **CITY OF EL PASO. TEXAS PROPOSITION C**

"SHALL the City Council of the City of El Paso, Texas, be authorized to issue general obligation bonds of the City in the principal amount of \$5,200,000 for permanent public improvements and public purposes, to wit: designing, constructing, improving, renovating, expanding, enhancing, and equipping existing City facilities for renewable energy and resource use efficiency improvements and planning, including photovoltaic and solar panel installations, urban heat, mobility and climate action planning, and modernizations to existing City facilities to meet green building standards and in connection with the foregoing, acquiring land, easements, rights-of-way, and other real property interests necessary therefor; such bonds to mature serially or otherwise over a period not to exceed forty (40) years from their date, to be issued and sold in one or more series at any price or prices and to bear interest at any rate or rates (fixed, floating, variable or otherwise) as shall be determined within the discretion of the City Council at the time of issuance or sale of the bonds; and whether ad valorem taxes shall be levied upon all taxable property in the City sufficient to pay the annual interest and provide a sinking fund to pay the bonds at maturity and the cost of any credit agreements executed in connection with the bonds?" and

WHEREAS, the Council has diligently inquired into the poll lists and the official election returns which were duly and lawfully provided to the Council by the judges, clerks and administrator holding and conducting such election; the poll lists and the official election returns showing separately the votes cast in the election; and

**WHEREAS**, from these returns, the Council hereby finds that the following votes were cast in the election by voters who were resident, qualified voters of the City:

# CITY OF EL PASO, TEXAS PROPOSITION A

"THE ISSUANCE OF \$246,480,000 GENERAL OBLIGATION BONDS FOR STREET IMPROVEMENTS INCLUDING SIDEWALKS, STREETSCAPES, AND TRAFFIC CONTROLS AND PLANNING, AND THE IMPOSITION OF A TAX SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS"

	For	<u>Against</u>
Early Votes (including mail ballots)	51,103	33,811
Election Day Votes	29,532	17,119
TOTAL	80,635	50,930

# CITY OF EL PASO, TEXAS PROPOSITION B

"THE ISSUANCE OF \$20,800,000 GENERAL OBLIGATION BONDS FOR PARKS AND RECREATION FACILITIES AND THE IMPOSITION OF A TAX SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS"

	For	<u>Against</u>
Early Votes (including mail ballots)	43,442	41,173
Election Day Votes	25,929	20,442
TOTAL	69,371	61,615

# CITY OF EL PASO, TEXAS PROPOSITION C

"THE ISSUANCE OF \$5,200,000 GENERAL OBLIGATION BONDS FOR RENEWABLE ENERGY AND RESOURCE USE EFFICIENCY IMPROVEMENTS AND PLANNING AND THE IMPOSITION OF A TAX SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS"

	For	<u>Against</u>
Early Votes (including mail ballots)	42,131	42,563
Election Day Votes	24,215	22,129
TOTAL	66,346	64,692

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS HEREBY FINDS, DECLARES AND RESOLVES THAT:

SECTION 1: The Council officially finds, determines, and declares that the election was duly and properly ordered, that proper legal notice of such election was duly given, that proper election officers were duly appointed prior to the election, that the election was duly and legally held, that all resident, qualified voters of the City were permitted to vote at the election, that due returns of the results of the election have been made and delivered, and that the Council has duly canvassed such returns, all in accordance with the laws of the State of Texas and the United States of America, and the order calling the election.

SECTION 2: A <u>MAJORITY</u> of the resident, qualified voters of the City voting in such election, having voted <u>FOR</u> the authorization and issuance of the bonds and the levy and pledge of the tax in payment thereof as provided in Proposition A, the Council hereby finds and determines that Proposition A carried at the election, that the election was duly called, that proper notice was given, that the election was held in all aspects in conformity with the law, and that the Council is hereby accordingly authorized to issue the bonds and to levy the tax in accordance with the authority granted in the Proposition and applicable law.

SECTION 3: A <u>MAJORITY</u> of the resident, qualified voters of the City voting in such election, having voted <u>FOR</u> the authorization and issuance of the bonds and the levy and pledge of the tax in payment thereof as provided in Proposition B, the Council hereby finds and determines that Proposition B carried at the election, that the election was duly called, that proper notice was given, that the election was held in all aspects in conformity with the law, and that the Council is hereby accordingly authorized to issue the bonds and to levy the tax in accordance with the authority granted in the Proposition and applicable law.

SECTION 4: A <u>MAJORITY</u> of the resident, qualified voters of the City voting in such election, having voted <u>FOR</u> the authorization and issuance of the bonds and the levy and pledge of the tax in payment thereof as provided in Proposition C, the Council hereby finds and determines that Proposition C carried at the election, that the election was duly called, that proper notice was given, that the election was held in all aspects in conformity with the law, and that the Council is hereby accordingly authorized to issue the bonds and to levy the tax in accordance with the authority granted in the Proposition and applicable law.

SECTION 5: The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

SECTION 6: 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 Chapter 551, as amended, Texas Government Code.

SECTION 7: This Resolution shall be in force and effect from and after its final passage and it is so resolved.

Motion made by Representative Rivera, seconded by Representative Molinar and unanimously carried to **APPROVE** the Resolution

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AYES: Representatives Annello, Molinar, Rodriguez, Rivera and Lizarraga NAYS: None ABSENT: Representatives Svarzbein, Hernandez and Salcido.

3.

# A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS CALLING FOR A RUNOFF ELECTION TO BE HELD ON DECEMBER 17, 2022 FROM THE 2022 GENERAL CITY ELECTION; AND MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION; AND AUTHORIZING A CONTRACT WITH EL PASO COUNTY TO FURNISH ELECTION SERVICES AND EQUIPMENT.

**WHEREAS,** following its General City Election held on November 8, 2022, the City of El Paso ("City") finds it necessary under the City of El Paso Charter and the laws of the State of Texas to hold a runoff election to fill the positions of three District Representatives from Single-Member District Nos. 1, 6, and 8; and

**WHEREAS,** the City will hold a runoff election on December 17, 2022, to fill the aforementioned positions, to be elected by a majority of the votes cast.

# NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

# SECTION 1 – OFFICIAL POSITIONS TO BE FILLED WITH RUNOFF ELECTION

A runoff election of the City of El Paso is hereby called to take place on December 17, 2022, for the purpose of electing the following named officers of the City of El Paso:

District Representative No. 1 District Representative No. 6 District Representative No. 8

Such runoff election shall be held in the manner and form prescribed by the laws of the State of Texas. At such runoff election, all qualified voters of the City shall be permitted to vote, and shall vote at the polling place designated for the election precinct in which they reside, or as allowed by applicable State Law, to elect their representatives. The qualified voters who reside in the Representative District Nos. 1, 6, and 8 shall vote for the Representative in their respective district. The candidate receiving a majority of the votes cast for each position shall be declared elected to such office.

Such election shall be held at the precincts and the polling places designated in Exhibit "A" or such other locations as may be designated prior to the election by the El Paso County Elections Administrator or City Clerk, attached hereto and made a part hereof for all purposes, and said polling places shall open at 7 a.m. and remain open until 7 p.m. on the day of the election.

# SECTION 2 – ELECTION SERVICES CONTRACT WITH COUNTY

The City Manager is hereby authorized to execute a contract, joint or otherwise, with the El Paso County Elections Administrator for the purpose of having El Paso County furnish all or any portion of the election services and equipment needed by the City Clerk to conduct the runoff election. The contract document and election services provided therein shall conform to Chapter 31, Subchapter D, of the Texas Election Code and all other applicable statutes and laws.

The election services contract shall provide (a) the type of electronic voting equipment to be used for early voting by personal appearance and on election day, (b) notification and training for election judges and clerks, (c) an estimate and final payment terms for the election services provided, (d) agreements for early voting equipment and voting machine rental, and (e) other procedures necessary to conduct the election.

# **SECTION 3 – EARLY VOTING CLERK FOR THE RUNOFF ELECTION**

Lisa Wise, El Paso County Elections Administrator, 500 E. San Antonio, Suite 314, El Paso, Texas, 79901, is hereby appointed as Early Voting Clerk.

# **SECTION 4 – EARLY VOTING**

Early voting by personal appearance shall be conducted at the El Paso County Courthouse, located at 500 E. San Antonio, El Paso, Texas 79901. In addition, early voting may also occur at such branch early voting polling places as are designated herein or otherwise designated by the El Paso County Elections Administrator and posted at City Hall by the City Clerk. The locations and hours for early voting by personal appearance shall be authorized for such election as set forth in Exhibit "A."

In addition, mobile voting stations may be authorized and used for early voting at publicly owned buildings in the City as established by the El Paso County Elections Administrator. The City Clerk is authorized to make corrections or revisions to the list of these mobile stations, including the respective hours for early voting by personal appearance at these stations. The City Clerk is further authorized to make corrections or revisions to the list of early voting stations as set forth above, including the respective hours for early voting by personal appearance at these stations, and revise and correct all election notices regarding the early voting locations and the mobile voting stations, and the dates and times for such voting.

For purposes of processing ballots cast in early voting, the election officers for the Early Voting Ballot Board shall be appointed and designated in accordance with the provisions of the election agreement with El Paso County.

## SECTION 5 – VOTING MACHINES AND ELECTION RESULTS

Voting machines used for the conduct of the runoff election, shall be procured, maintained, operated, sealed and the votes therefrom tabulated pursuant to procedures established and authorized by the laws of the State of Texas.

The results of the runoff election shall be certified, canvassed, and returned in the form and manner prescribed by law.

## SECTION 6 - NOTICE OF ELECTION

The notice of the runoff election hereby ordered and called shall be promulgated, published and posted in keeping with the state and local laws. A substantial copy of this resolution shall serve as proper notice of said election.

The City Clerk shall give notice of such runoff election by posting a notice of such election in English and Spanish in the Office of the City/Municipal Clerk as provided by law and by publishing a copy of said notice in both English and Spanish in a newspaper in the City as required by law.

The City Clerk shall deliver notice of this runoff election to the county clerk and voter registrar of El Paso County, as required by law.

# SECTION 7 - COMPLIANCE WITH APPLICABLE LAWS

The City Manager and the City Clerk, in consultation with the City Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of federal and state law in carrying out and conducting the runoff election, whether or not expressly authorized herein.

EXHIBIT A		
tion	<b>E</b>	
0 – December 13 <mark>ONS</mark>		
Wednesday, Nov. 30 - Friday, Dec. 2	8am - 5pm	
Saturday, Dec. 3 - Sunday, Dec. 4	12pm - 5pm	
Monday, Dec. 5 - Friday, Dec. 9	8am - 5pm	
Saturday, Dec. 10 - Sunday, Dec. 11	12pm - 5pm	
Monday, Dec. 12 - Tuesday, Dec. 13	8am - 5pm	
Wednesday, Nov. 30 - Friday, Dec. 2	8am - 5pm	
Saturday, Dec. 3 - Sunday, Dec. 4	12pm - 5pm	
Monday, Dec. 5 - Friday, Dec. 9	8am - 5pm	
Saturday, Dec 10 - Sunday, Dec. 11	12pm - 5pm	
Monday, Dec. 12 - Tuesday, Dec. 13	8am - 5pm	
Wednesday, Nov. 30 - Friday, Dec. 2	10am - 7pm	
Saturday, Dec. 3 - Sunday, Dec 4	12pm - 5pm	
Monday, Dec. 5 - Friday, Dec. 9	10am - 7pm	
Saturday, Dec. 10 - Sunday, Dec. 11	12pm - 5pm	
Monday, Dec. 12 - Tuesday, Dec. 13	10am - 7pm	
Wednesday, Nov. 30 - Friday, Dec. 2	8am - 6pm	
Saturday, Dec. 3 - Sunday, Dec 4	12pm - 5pm	
Monday, Dec. 5 - Friday, Dec. 9	8am - 6pm	
Saturday, Dec. 10 - Sunday, Dec. 11	12pm - 5pm	
Monday, Dec. 12 - Tuesday, Dec. 13	8am - 6pm	
Wednesday, Nov. 30 - Friday, Dec. 2	9am - 6pm	
Saturday, Dec. 3 - Sunday, Dec 4	12pm - 5pm	
Monday, Dec. 5 - Friday, Dec. 9	9am - 6pm	
Saturday, Dec 10 - Sunday, Dec. 11	12pm - 5pm	
Monday, Dec. 12 – Tuesday, Dec. 13	9am - 6pm	
Wednesday, Nov. 30 - Friday, Dec. 2	8am - 5pm	
Saturday, Dec. 3 - Sunday, Dec 4	12pm - 5pm	
Monday, Dec. 5 - Friday, Dec. 9	8am - 5pm	
Saturday, Dec 10 - Sunday, Dec. 11	12pm - 5pm	
Monday, Dec. 12 - Tuesday, Dec. 13	8am - 5pm	
Wednesday, Nov. 30 - Friday, Dec. 2	9am - 6pm	
Saturday, Dec. 3 - Sunday, Dec 4	12pm - 5pm	
Monday, Dec. 5 - Friday, Dec. 9	9am - 6pm	
Saturday, Dec 10 - Sunday, Dec. 11	12pm - 5pm	
Monday, Dec. 12 – Tuesday, Dec. 13	9am - 6pm	
Wednesday, Nov. 30 - Friday, Dec. 2	8am - 5pm	
Saturday, Dec. 3 - Sunday, Dec 4	12pm - 5pm	
Monday, Dec. 5 - Friday, Dec. 9	8am - 5pm	
Saturday, Dec 10 - Sunday, Dec. 11	12pm - 5pm	
Monday, Dec. 12 - Tuesday, Dec. 13	8am - 5pm	
Wednesday, Nov. 30 - Friday, Dec. 2	8am - 6pm	
Saturday, Dec. 3 - Sunday, Dec 4	12pm - 5pm	
Monday, Dec. 5 - Friday, Dec. 9	8am - 6pm	
Saturday, Dec 10 - Sunday, Dec. 11	12pm - 5pm	
Monday, Dec. 12 - Tuesday Dec. 13	8am - 6pm	
	<ul> <li>O – December 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 3 - Sunday, Dec. 4 Monday, Dec. 5 - Friday, Dec. 9 Saturday, Dec. 10 - Sunday, Dec. 11 Monday, Dec. 12 - Tuesday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 3 - Sunday, Dec. 4 Monday, Dec. 5 - Friday, Dec. 9 Saturday, Dec. 10 - Sunday, Dec. 11 Monday, Dec. 12 - Tuesday, Dec. 11 Monday, Dec. 12 - Tuesday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 3 - Sunday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 3 - Sunday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 3 - Sunday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 3 - Sunday, Dec. 4 Monday, Dec. 5 - Friday, Dec. 9 Saturday, Dec. 3 - Sunday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 10 - Sunday, Dec. 11 Monday, Dec. 5 - Friday, Dec. 9 Saturday, Dec. 10 - Sunday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 10 - Sunday, Dec. 11 Monday, Dec. 12 - Tuesday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 10 - Sunday, Dec. 11 Monday, Dec. 12 - Tuesday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 3 - Sunday, Dec. 14 Monday, Dec. 5 - Friday, Dec. 9 Saturday, Dec. 10 - Sunday, Dec. 11 Monday, Dec. 12 - Tuesday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 3 - Sunday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 10 - Sunday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 10 - Sunday, Dec. 11 Monday, Dec. 12 - Tuesday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 10 - Sunday, Dec. 11 Monday, Dec. 12 - Tuesday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 10 - Sunday, Dec. 11 Monday, Dec. 12 - Tuesday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 10 - Sunday, Dec. 13</li> <li>Wednesday, Nov. 30 - Friday, Dec. 2 Saturday, Dec. 5 - Friday, Dec. 13</li></ul>	

# NOVEMBER 16, 2022 Page 10

Note: Early Voting Locations, dates, and times are subject to change at any time. Any registered voter may vote at any Early Voting Location. Click on an address for a street view via Google Maps or click on a location name to view a picture to that specific site. For more information visit epcountyvotes.com or call (915) 546-2154.

# EXHIBIT A

# December 2022 Runoff Election Elección de Desempate de Diciembre de 2022



Election Day: Saturday, December 17, 2022 Día de Elección: Sabado, 17 de Diciembre de 2022

7:00 a.m. - 7:00 p.m.

You can now vote at any Vote Center on Election Day. Ahora puede votar en cualquier Centro de Votación el Día de la Elección.

Vote Center	Address
Centro de Votación	Direction
Enrique Moreno County Courthouse	500 E. San Antonio Ave. 79901
South El Paso Senior Citizens Center	600 S. Ochoa St. 79901
El Paso Community College-Río Grande Camous	906 El Paso St. 79902
Fire Station #3	721 E. Rio Grande Ave. 79902
Lamar Elementary School	1440 E. Cliff Dr. 79902
Mesita Elementary School	3307 N. Stanton St. 79902
UTEP - Union Building East	351 W. University Ave. 79968
Bowle High School	801 S. San Marcial St. 79905
Congressman Silvestre & Carolina Reves School	7440 Northern Pass Dr. 79911
Sunland Park Mall	750 Sunland Park Dr. 79912
Brown Middle School	7820 Helen of Troy Dr. 79912
Dorris Van Doren Library	551 Redd Rd. 79912
Tippin Elementary School	6541 Bear Ridge Dr. 79912
Fire Station #27	6767 Olo De Agua Dr. 79912
Rosa Guerrero Elementary School	7530 Lakehurst Rd. 79912
YWCA - West	313 Bartlett Dr. 79912
Carlos Rivera Elementary School	6445 Escondido Dr. 79912
Western Hills U.M.CStewart Family Life Center A	524 Thunderbird Dr. 79912
Dr. Green Elementary School	5430 Buckley Dr. 79912
Putnam Elementary School	6508 Flesta Dr. 79912
Polk Elementary School	940 Belvidere St. 79912
Fire Station #15	115 Shorty Ln. 79922
Zach White Elementary School	4256 Roxbury Dr. 79922
KEYS Academy	12380 Pine Springs Dr. 79928
Center for Career and Technology Education	1170 N. Walnut St. 79930
Fire Station #2	111 E. Borderland Rd. 79932
Community Connections Center	5300 Warriors Dr. 79932
El Paso County Eastside Annex	2350 George Dieter Dr. 79936
Jane Hambric K-8 School	3535 Nolan Richardson Dr. 79936
Bill Sybert K-8 School	11530 Edgemere Blvd, 79936
Benito Martinez Elementary School	2640 Robert Wynn St. 79938
Helen Ball Elementary School	1950 Firehouse Dr. 79936
O'Shea Keleher Elementary School	1800 Leroy Bonse Dr. 79936
Marty Robbins Recreation Center	11620 Vista Del Sol Dr. 79936
Sierra Vista Elementary School	1501 Bob Hope Dr. 79936
Fire Station #35	12230 Pine Springs Dr. 79936

Note: Vote Centers are subject to change at any time. Click on an address for directions via Google Maps or click on a location name to view a picture to that specific site. For more election information visit epocuntyvotes.com or call (916) 548-2164.

Nota: Centros de Votación están sujetos a cambio en cualquier momento. Para ver mapa del lugar, presione en la dirección del Lugar de Votación de su preferencia via Google Maps o para ver una imagen del lugar, presione en el nombre del Centro de Votación de su preferencia. Para más información visite os.opcountyvotos.com o liame al (915) 546-2154.

Representative Rodriguez commented.

Ms. Karla Nieman, City Attorney commented.

Motion made by Representative Annello, seconded by Representative Molinar and unanimously carried to **APPROVE** the Resolution

AYES: Representatives Annello, Molinar, Rodriguez, Rivera and Lizarraga NAYS: None

ABSENT: Representatives Svarzbein, Hernandez and Salcido.

## .....

# ADJOURN

Motion made by Representative Annello, seconded by Representative Molinar and unanimously carried to **ADJOURN** the meeting at 2:19 p.m.

AYES: Representatives Annello, Molinar, Rodriguez, Rivera, and Lizarraga NAYS: None ABSENT: Representatives Svarzbein, Hernandez and Salcido

.....

APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk



Legislation Text

File #: 22-1521, Version: 1

# CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

# DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

# AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* Excuse Representative Cissy Lizarraga from the November 22, 2022 Regular City Council Meeting.



Legislation Text

File #: 22-1514, Version: 1

# CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

# DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

District 3

Airport, Sam Rodriguez, (915) 212-7301

## AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

That the City Manager, or designee, is authorized to sign a Lessor's Approval of Assignment on Industrial Site Lease by and between the City of El Paso ("Lessor"), Kalil Bottling Company of El Paso ("Assignor") and Admiral Beverage Corporation ("Assignee"), for the premises described as follows:

Lots 5 & 6, Block 7, El Paso International Airport Tracts, Unit One, City of El Paso, El Paso County, Texas containing 61,564.00 SQ FT, commonly known as 7328 Boeing Drive, El Paso, Texas.

Term: Initial term five (5) years with two (2) options of five (5) years. Rental Fee: 61,564.00 square feet at \$0.5382 = \$33,135.96 per annum or \$2,761.33 per month.

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

# AGENDA DATE: November 22, 2022

#### PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Samuel Rodriguez, P.E. Aviation Director (915) 212-7301

#### **DISTRICT(S) AFFECTED: 3**

STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development

#### SUBGOAL: N/A

#### SUBJECT:

That the City Manager be authorized to sign a Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), Kalil Bottling Co. of El Paso ("Assignor"), and Admiral Beverage Corporation, a Wyoming corporation ("Assignee") for the following described property:

Lots 5 & 6, Block 7, El Paso International Airport Tracts, Unit One, City of El Paso, El Paso County, Texas containing 61,564.00 SQ FT, commonly known as 7328 Boeing Drive, El Paso, Texas.

Term: Initial term five (5) years with two (2) options of five (5) years. Rental Fee: 61,564.00 square feet at \$0.53823598207 = \$33,135.96 per annum or \$2,761.33 per month.

## **BACKGROUND / DISCUSSION:**

The Department of Aviation requests the approval of this Lessor's Approval of Assignment to allow the transfer of rights and obligations possessed by Kalil Bottling Company of El Paso to Admiral Beverage Corporation.

All terms and conditions of the lease remain the same.

#### **PRIOR COUNCIL ACTION:**

January 19, 2017 – Approval of Industrial Site Lease. •

## AMOUNT AND SOURCE OF FUNDING:

N/A: This is a revenue-generating item.

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

**PRIMARY DEPARTMENT: Aviation** SECONDARY DEPARTMENT: N/A

****	**************************************	
DEPARTMENT HEAD:	Sour	
	Samuel Rodriguez, P.E., Aviation Director	

# RESOLUTION

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

That the City Manager be authorized to sign a Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), Kalil Bottling Co. of El Paso ("Assignor"), and Admiral Beverage Corporation, a Wyoming corporation ("Assignee") for the following described property:

Lots 5 and 6, Block 7, El Paso International Airport Tracts, Unit 1, City of El Paso, El Paso County, Texas, containing 61,564 square feet of land more or less, commonly known and numbered as 7328 Boeing Drive, El Paso, Texas.

Approved this the \_\_\_\_ day of \_\_\_\_\_ 2022.

THE CITY OF EL PASO

ATTEST:

Oscar Leeser Mayor

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

nacio horioso

Ignacio Troncoso Assistant City Attorney

APPROVED AS TO CONTENT: Samuel Rodriguez, P.E.

Director of Aviation

# STATE OF TEXAS § § LESSOR'S APPROVAL OF ASSIGNMENT COUNTY OF EL PASO §

WHEREAS, the City of El Paso ("Lessor") entered into an Industrial Site Lease, with an Effective Date of January 10, 2017, as amended (the "Lease"), between the Lessor and Kalil Bottling Co. of El Paso, a Texas corporation, for the following described property:

Lots 5 and 6, Block 7, El Paso International Airport Tracts, Unit 1, City of El Paso, El Paso County, Texas, containing 61,564 square feet of land more or less, commonly known and numbered as 7328 Boeing Drive, El Paso, Texas, and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof ("Property");

WHEREAS, Assignor has requested the Lessor's approval and consent to an assignment of the Lease to Admiral Beverage Corporation, a Wyoming corporation.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. <u>CONSENT TO ASSIGNMENT</u>. Lessor hereby approves and consents to the assignment of the Lease from Assignor to Admiral Beverage Corporation, ("Assignee"), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under the terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.

Assignee does hereby assume and agrees to be liable to pay any and all sums owing or becoming due Lessor under the terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.

- 2. <u>PROOF OF INSURANCE AND INDEMNIFICATION</u>. Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.
- 3. <u>RELEASE.</u> Assignor is hereby released and discharged by Lessor from all rights, privileges, responsibilities and obligations under the Lease first arising and accruing from and after the effective date of the assignment of the Lease and Lessor and Assignee each hereby acknowledges that, as of the effective date of the assignment, Assignee enjoys all such rights and privileges and is responsible for satisfying all such obligations the same as if the Lease had originally been executed between Lessor and Assignee.

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- 4. <u>SECURITY DEPOSIT</u>. A Security Deposit in the amount of \$8,283.99, which is the equivalent to three (3) months of rent, is required as a condition to this Approval.
- 5. <u>**RATIFICATION OF LEASE.</u>** Except as expressly set forth herein, no provision of this Approval alters or modifies any of the terms and conditions of the Lease, and all other terms and conditions of the Lease shall remain in full force and effect.</u>
- 6. <u>ADDRESS FOR NOTICE</u>. Notices to Assignee and Assignor shall be sufficient if sent by certified mail, postage prepaid, addressed to:

ASSIGNOR: Kalil Bottling Co. of El Paso Attention: John Kalil 931 S. Highland Avenue Tucson, AZ 85719

ASSIGNEE: Admiral Beverage Corporation 821 Pulliam Avenue Worland, WY 82401 Attn: Robert E. Callan, Vice President

- 7. <u>AUTHORIZED REPRESENTATIVE</u>. The persons signing this Lessor's Approval of Assignment on behalf of the Assignee and Assignor represent and warrant that they have the legal authority to bind the Assignee and Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.
- 8. <u>NON-WAIVER</u>. The Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
- 9. <u>EFFECTIVE DATE</u>. The Effective Date of this Lessor's Approval of Assignment will be the date this document is approved by the El Paso City Council.
- 10. <u>COUNTERPARTS</u>. This Lessor's Approval of Assignment may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, and all of which shall constitute one and the same instrument as if all parties had signed the same signature page.

(Signatures begin on the following page)

APPROVED THIS \_\_\_\_\_ day of

\_, 2022.

# LESSOR: CITY OF EL PASO

Tomás González City Manger

**APPROVED AS TO FORM:** 

roundo

Ignacio Troncoso Assistant City Attorney

**APPROVED AS TO CONTENT:** 

Samuel Rodriguez, P.E. Director of Aviation

#### LESSOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS

)

)

COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_ by Tomás González as City Manager for the City of El Paso, Texas (Lessor).

My Commission Expires:

Notary Public, State of Texas

(Signatures continue on the following page)

22-1003-1336/1214826.2/ Lessor's Approval of Assignment/Kalil Bottling/Admiral Beverage Co (7328 Boeing Drive)/IRT

ASSIGNOR: KALIL BOTTLING CO. OF EL PASO, a Texas corporation By: Print Name: Its: ASSIGNOR'S ACKNOWLEDGEMENT ma THE STATE OF C ) COUNTY OF TIMO by the President of tali Bottling Co., on behalf of on behalf of said corporation (Assignor). My Commission Expires: State of olarv Public. Dunona 2024 H ROSE MARY G. VIZCAINO Hotary Public - Artzona Pima County Commission # 580279 My Comm. Explires Apr 11, 2024

(Signatures continue on the following page)

22-1903-1316/1214826.2/ Latter's Approval of Assignment/Kelli Sotting/Admini Beverage Co (7328 Bacing Drive)/IRT

Page 4

ASSIGNEE: ADMIRAL BOTTLING COMPANY, a Wyoming corporation en 11 64 L By 1 DOGRAT Print Name: 4 Ce MesiDer T lts:  $\overline{\mathcal{V}}$ 

#### ASSIGNEE'S ACKNOWLEDGEMENT

THE STATE OF WHOMINA J ) COUNTY OF Washakie ħ

	re me on this 14 day of November, 20 22
by Robert E Callan, Vice President	of Admiral Botting Co. , on
behalf of said corporation (Assignee).	
	Jennifah seerang
	Notary Public, State of Wigomine
My Commission Expires:	

My Commission Expires:

Julu 26.2024

JENNIFER WIL	LIAMS - N	OTARY PUBLIC
COUNTY OF WASHAKIE		STATE OF WYOMING
My Commissi	on Expires	JULY 26, 2024

22-1003-1336/1214826.3/ Lesson's Approvel of Assignment/Kalli Bouling/Adminel Beverage Co (7338 Booing Drive)/IRT

Page 5

1



Legislation Text

### File #: 22-1503, Version: 1

# CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

# DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.* 

All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Police, Chief Gregory K. Allen, (915) 212-4305

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* The linkage to the Strategic Plan is subsection 2.1- Maintain standing as one of the nation's top safest cities.

A Resolution to request that the Purchasing Director is authorized to notify El Paso Healthcare System, Ltd, dba Las Palmas Del Sol Healthcare that the City is terminating awarded Contract No. 2018-1665R Physical Exams and Drug Testing for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

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

AGENDA DATE: PUBLIC HEARING DATE:	November 22, 2022 Not Applicable
CONTACT PERSON(S) NAME	E AND PHONE NUMBER:
	Chief of Police Gregory K. Allen, El Paso Police Department, (915) 212-4305
DISTRICT(S) AFFECTED:	Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218 ALL
STRATEGIC GOAL:	No. 2 – Set the Standard for a Safe and Secure City
SUBGOAL:	2.1 Maintain standing as one of the nation's top safest cities

#### SUBJECT:

Request that the Purchasing Director is authorized to notify Vendor that City is terminating awarded Contract No. 2018-1665R Physical Exams and Drug Testing for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

#### BACKGROUND / DISCUSSION:

El Paso Healthcare System, Ltd, dba Las Palmas Del Sol Healthcare informed the City on August 18, 2022 that it was not going to be able to continue performing services due to staffing constraints effective September 30, 2022.

#### SELECTION SUMMARY:

N/A

CONTRACT VARIANCE:

#### N/A

#### PROTEST

No protest received for this requirement.

### **PRIOR COUNCIL ACTION:**

On October 2, 2018 City Council approved the award of contract 2018-1665R to El Paso Healthcare System, Ltd, Dba Las Palmas Del Sol Healthcare for a three (3) year term and two (2) year-option to extend the contract for at total amount of \$324,901.50.

#### AMOUNT AND SOURCE OF FUNDING: N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_X\_ YES \_\_\_NO

PRIMARY DEPARTMENT: Police Department SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

***	
EPARTMENT HEAD:	Drever K. Alla
	Chief of Police Gregory K Allen, El Paso Police Department

2018-1665R Physical Exams and Drug Testing

Revised 2/23/2022-V2 - Previous Versions Obsolete

### COUNCIL PROJECT FORM (Termination)

### 

Please place the following item on the **<u>CONSENT AGENDA</u>** for the Council Meeting of **<u>November 22</u>**, **<u>2022</u>**.

### STRATEGIC GOAL NO. 2: Set the Standard for a Safe and Secure City

The linkage to the Strategic Plan is subsection 2.1: Maintain standing as one of the nation's top safest cities.

Request that the Purchasing Director is authorized to notify El Paso Healthcare System, Ltd, dba Las Palmas Del Sol Healthcare that City is terminating awarded Contract No. 2018-1665R Physical Exams and Drug Testing for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

# RESOLUTION

WHEREAS, on October 2, 2018 the City of El Paso ("City") awarded Contract No. 2018-1665R Physical Exams and Drug Testing to El Paso Healthcare System, LTD, dba Las Palmas Del Sol Healthcare ("Vendor"):

WHEREAS, the City desires to terminate the Contract for Default, pursuant to the provisions of Section XIV.B. of the Contract.

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

That the Purchasing Director is authorized to notify Vendor that City is terminating awarded Contract No. 2018-1665R Physical Exams and Drug Testing for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

APPROVED this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 2022.

### THE CITY OF EL PASO:

Oscar Lesser Mayor

### **APPROVED AS TO CONTENT:**

idia A. Garcia,

Claudia A. Garcia, Interim Director Purchasing & Strategic Sourcing

### **APPROVED AS TO FORM:**

ATTEST:

Laura D. Prine

City Clerk

Juan S. Gonzalez Senior Assistant City Attorney

### **APPROVED AS TO CONTENT:**

Gregory K. Allen

Police Department



Legislation Text

### File #: 22-1504, Version: 1

# CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

# DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Police, Chief Gregory K. Allen, (915) 212-4302

### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* **The linkage to the Strategic Plan is subsection: 2.3 - Increase public safety operational efficiency.** 

A Resolution to request that the City Manager be authorized to sign an agreement for physical exams, drug screening, and drug and alcohol testing services for the City's Police Department between the City of El Paso ("City") and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers, contract 2023-0182 Physical Exams and Drug Testing Screening for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$68,797.

Contract Variance:

The difference based in comparison to the previous contract for a six-month period is as follows: An increase of \$36,306.85, which represents a 111.75% increase due to higher rates for testing.

This is a Non-Competitive, service contract.

The Purchasing & Strategic Sourcing and the Police Departments recommend award as indicated to Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: NA

CONTACT PERSON(S) NAME AND PHONE NUMBER:

Gregory K. Allen, Police Chief, (915) 212-4302 Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

DISTRICT(S) AFFECTED: All

**STRATEGIC GOAL:** 2 – Set the Standard for a Safe and Secure City

**SUBGOAL:** 2.3 – Increase public safety operational efficiency.

### SUBJECT:

Request that the City Manager be authorized to sign an agreement for physical exams, drug screening, and drug and alcohol testing services for the City's Police Department between the City of El Paso ("City") and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers, contract 2023-0182 Physical Exams and Drug Testing Screening for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$68,797.

### **BACKGROUND / DISCUSSION:**

These services are required to continue the professional services to perform physical examinations and drug screenings on all police academy applicants, prior employees considered for reinstatement, and Police Department employee applicants to the Hazardous Devices School.

### SELECTION SUMMARY:

This is a non-competitive procurement pursuant to Section 252.022(a)(2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents. These services are essential to the public safety of our community to continue providing services to EPPD uniformed employees.

### CONTRACT VARIANCE:

The difference based in comparison to the previous contract for a six-month period is as follows: An increase of \$36,306.85, which represents a 111.75% increases due to higher rates for testing.

### **PROTEST**

No protest received for this requirement.

### **PRIOR COUNCIL ACTION:**

NA

### AMOUNT AND SOURCE OF FUNDING:

Amount: \$68,797.00 Funding Source: 521120-1000-321-21030 Account: General Fund PRIMARY DEPARTMENT: Police SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

**DEPARTMENT HEAD:** 

K. Aller

Chief of Police Gregory K. Allen, El Paso Police Department

### COUNCIL PROJECT FORM (Non-competitive)

Please place the following item on the **<u>CONSENT</u>** agenda for the Council Meeting of November 22, 2022.

## Strategic Goal 2: Set the Standard for a Safe and Secure City

The linkage to the Strategic Plan is subsection: 2.3 – Increase public safety operational efficiency.

Request that the City Manager be authorized to sign an agreement for physical exams, drug screening, and drug and alcohol testing services for the City's Police Department between the City of El Paso ("City") and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers, contract 2023-0182 Physical Exams and Drug Testing Screening for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$68,797.

### Contract Variance:

The difference based in comparison to the previous contract for a six-month period is as follows: An increase of \$36,306.85, which represents a 111.75% increase due to higher rates for testing.

This is a Non-competitive, service contract.

The Purchasing & Strategic Sourcing and the Police Departments recommend award as indicated to Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

### RESOLUTION

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

**THAT** the City Manager be authorized to sign an agreement for physical exams, drug screening, and drug and alcohol testing services for the City's Police Department between the City of El Paso ("City") and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers, contract 2023-0182 Physical Exams and Drug Testing Screening for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$68,797.

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2022.

CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

#### **APPROVED AS TO FORM:**

Juan S. Gonzalez Senior Assistant City Attorney

#### **APPROVED AS TO CONTENT:**



Claudia A Garcia, Interim Director Purchasing & Strategic Sourcing

**APPROVED AS TO CONTENT:** 

Gregory Allen, Police Chief Police Department

STATE OF TEXAS	)	PROFESSIONAL SERVICE AGREEMENT
	)	FOR PHYSICAL EXAMS AND DRUG TESTING
COUNTY OF EL PASO	)	SCREENING FOR THE POLICE DEPARTMENT

This physical exams and drug testing screening services agreement (this "*Agreement*") is entered into this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_\_\_ (the "*Effective Date*") by and between the City of El Paso, a home rule municipal corporation (the "*City*"), and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers a Texas Company (the "*Company*").

### <u>RECITALS</u>

**WHEREAS**, the City desires to engage the Company to provide professional physical exams and drug testing screening services in accordance with all applicable laws and procedures; and

**WHEREAS**, stress management services are considered as professional services pursuant to Chapter 2254 of the Texas Government Code; and

WHEREAS, the City selected Company to provide the professional services on the basis of Company's demonstrated competence and qualifications to perform the services for a fair and reasonable price for 2023-0182; and

WHEREAS, Company is willing and able to perform said physical examinations and drug screenings on all police academy applicants, Police Department employees considered for reinstatement, and Police Department employees considered for admittance to the Hazardous Devices School.

**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:

### <u>A G R E E M E N T</u>

**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 I. TERM**. The effective date of this Agreement is \_\_\_\_\_\_, 2022 and will remain in effect thereafter for six (6) months from the effective date of this Agreement.

**SECTION II. SCOPE OF SERVICES**. The Service Provider hereby agrees to perform physical exams and drug screenings in accordance with the Medical Standards, Medical Evaluations Guidelines, and Hazardous Devices School Medical Packet when applicable as further identified and described in Exhibit A, attached hereto and incorporated by reference. The scope of services shall be referred to as the "Services". The City shall pay for Services at the rates established in the Proposal Cost in Exhibit B, attached hereto and incorporated by reference. All services shall be performed with reasonable care, skill, and diligence as would be practiced by the medical and scientific community within the County of El Paso, Texas.

**SECTION III. COMPLETION OF SERVICES.** The Service Provider understands that time is of the essence in completing the Services. Failure of the Service Provider to meet the specified time for

completion of Services shall be cause for termination pursuant to Section XIV of this Agreement.

**SECTION IV. NON-EXCLUSIVE AGREEMENT.** This Agreement is non-exclusive. The City shall be entitled to enter into other agreements for the Services with other properly selected individuals or businesses that qualify to provide the Services.

**SECTION V. PRE-REQUISITE TO AGREEMENT.** The Service Provider shall comply with applicable state and local licenses, certifications, and other qualification requirements as a prerequisite to entering into this Agreement.

**SECTION VI. LOCATION OF PERFORMANCE**. The Company shall perform the Services in the City and County of El Paso, Texas or such other place(s) as may be necessary to fulfill the terms of this Agreement.

**SECTION VII. REPRESENTATIONS OF THE COMPANY**. The Company represents, warrants, and agrees as follows:

- A. It will comply with all applicable federal, state, and local government laws, rules, regulations and all provisions of the City of El Paso Charter and the El Paso City Code, now existing or as may be amended, in the performance of its duties under this Agreement.
- B. The Service Provider, including each certified individual and all other licensed physician employed by the Service Provider and performing the services for the City, shall at all times during the performance of this Agreement maintain the licenses, certifications required by any applicable statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the conduct of its operations hereunder. The Service Provider warrants that it is duly authorized, licensed, and certified to perform its duties hereunder in the jurisdiction in which it will act.

It further warrants that its employees shall maintain all required professional licenses and/or certifications during the term of this Agreement. If the Service Provider receives notice from a licensing or certification authority of a suspension or revocation of a license or certification of the Service Provider's employee(s), the Service Provider shall immediately remove such employee from performing any further services under this Agreement until such license or certification is reinstated and in good standing and within 72 hours, notify the City of such actions. If the Service Provider fails to maintain such licenses or certifications or fails to remove any employee who performs services under this Agreement whose license or certification has expired or been revoked or suspended, the City shall be entitled, at its sole discretion, to immediately terminate this Agreement upon written notice to the Service Provider.

C. The Service Provider shall not in any fashion discriminate in the performance of this Agreement against any person because of race, color, religion, national origin, sex, age, disability, political belief, sexual orientation or affiliation.

**SECTION VIII. COMPENSATION AND METHOD OF PAYMENT**. The City shall pay the Service Provider for each physical exam and drug screening performed at the rates set forth in the *Proposal Cost* attached hereto as *Exhibit B*. The Service Provider services shall be limited to those services

delineated in the Section III of this Agreement. It is understood and agreed that the City shall not be liable for any costs that exceed the amount of this Agreement without the prior written approval of the City Manager and compliance with applicable competitive bidding laws and City policies. Said approval must be obtained prior to the Service Provider commencing the services that will result in the cost overrun.

The parties acknowledge and agree that the award of this Agreement is dependent upon the availability of funding. In the event that funds do not become available, the Agreement may be terminated, with a 30-day written notice to the Service Provider by the City. In such an event, the City shall incur no penalty or charge.

The Service Provider shall submit a monthly invoice to the Police Department for each month in which Services are performed pursuant to this Agreement. Invoices shall not be submitted more frequently than once per month. All invoices, including late fee interest, shall be paid in accordance to Texas Government Code Chapter 2251. Applicants and employees in receipt of the Services shall not be invoiced for the Services.

**SECTION IX. INDEPENDENT SERVICE PROVIDER**. Nothing herein shall be construed as creating a relationship of employer and employee between the parties hereto. The Service Provider agrees to be responsible for its own acts and omissions and those of its subordinates and employees in the performance of any material services under this Agreement. The Service Provider is an independent Service Provider and nothing contained herein shall constitute or designate the Service Provider or any of his employees as employees of the City. Neither the Service Provider nor his employees shall be entitled to any of the benefits established for City employees, nor be covered by the City's Workers' Compensation Program.

**SECTION X. MEDICAL RECORDS AND CONFIDENTIALITY OF RECORDS.** The Service Provider recognizes that all information and materials received in connection with this Agreement shall be kept in the strictest confidence. All medical screenings shall be City property for the life of this Agreement. The Service Provider shall keep the records for the life of this Agreement and shall follow the regulations according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all subsequent amendments. The Service Provider shall follow the Business Associate Agreement which attached hereto and incorporated to this Agreement through Exhibit C. Upon termination of this Agreement all records shall be transferred to the City within ten (10) business days of termination at the City's sole expense of such transfer.

**SECTION XI. INSPECTIONS & AUDITS**. The City shall have the right to perform, or cause to be performed: (1) audits of the books and records of the Company; and (2) inspections of all places where work is undertaken in connection with this Agreement. The Company shall be required to keep such books and records available for such purpose for at least five (5) years after its performance under this Agreement ceases. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.

**SECTION XII. OWNERSHIP**. All files and documents generated by Company as a result of its activity under this Agreement shall remain at all times the property of the City.

**SECTION XIII. INSURANCE REQUIREMENTS.** With no intent to limit the Company's liability or the indemnification provisions set forth hereinafter, the Company shall provide and maintain the following insurance in full force and effect at all times during the term of this Agreement and any

extensions thereto. The City shall be provided with certificates of insurance evidencing the required insurance prior to the Effective Date of this Agreement and thereafter with certificates evidencing renewal or replacement of said policies of insurance at least fifteen (15) days prior to the expiration or cancellation of any such policies.

### A. INSURANCES

1. **Worker's Compensation.** A third-party policy of Workers' Compensation insurance coverage providing Statutory Benefits according to the Workers Compensation Act of the State of Texas and/or any other state or federal law as may be applicable to the work and shall cover all of the persons engaged in the work.

2. **Commercial Liability, Property Damage Liability and Vehicle Liability Insurance.** The Company shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Vehicle Liability Insurance as shall protect the Company and the Company's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from services performed under this Agreement, whether such services be performed by the Company or by anyone directly employed by the Company. The minimum limits of liability and coverage shall be as follows:

### a) <u>Commercial General Liability</u> Personal Injury or Death

\$1,000,000 for each person \$1,000,000 in the aggregate

### **Property Damage**

\$1,000,000 for each occurrence \$1,000,000 in the aggregate

b) <u>Vehicle Liability</u> Combined Single Limit \$1,000,000 per accident

**B. ERRORS AND OMISSIONS LIABILITY INSURANCE.** The Company shall procure and maintain, at the Company's sole expense, Professional Liability Insurance (Such as errors and omissions insurance) for the benefit of the City to cover the errors and omissions of the Company, its principals or officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS (\$1,000,000) on a claims made basis.

C. FORM OF POLICIES. The insurance required herein may be in one or more policies of insurance, the form of which must be approved by the City's Risk Manager.

**D. ISSUERS OF POLICIES.** The issuer of any policy must have a certificate of authority to transact insurance business in the State of Texas. Each issuer must be responsible, reputable, and have financial capability consistent with the risks covered. Each issuer shall be subject to approval by the City's Risk Manager in his sole discretion as to conformance with these requirements.

**E. INSURED PARTIES**. Each policy, except those for Workers' Compensation and Employer's Liability, must name the City of El Paso (and their elected and appointed officials, officers, agents and

employees) as Additional Insured parties on the original policy and all renewals or replacements during the term of this Agreement.

**F. MATERIAL CHANGE IN POLICY(IES).** Prior to any material change in any policy required herein, the City will be given sixty (60) days advance written notice by registered mail. Further, the City will be immediately notified of any reduction or possible reduction in aggregate limits of any such policy where such reduction, when added to any previous reductions, would exceed twenty-five percent (25%) of the aggregate limits.

**G. CANCELLATION.** Each policy must expressly state that it may not be canceled or nonrenewed unless sixty (60) days advance notice of cancellation or intent not to renew is given in writing to the City's Purchasing Director by the insurance company. The Company shall also give written notice to the City's Purchasing Director within fifteen (15) days of the date upon which total claims by any party against the Company reduce the aggregate amount of coverage below the amounts required by this Agreement.

**H. DELIVERY OF POLICIES.** The originals of all policies referred to above, or copies thereof certified by the agent or attorney-in-fact issuing them together with written proof that the premiums have been paid, shall be deposited by the Company with the City's Purchasing Director prior to beginning work under this Agreement, and thereafter before the beginning of each subsequent year of the term of this Agreement. Notices and Certificates required by this clause shall be provided to:

City of El Paso Purchasing and Strategic Sourcing Department Attn: Purchasing Director 300 N. Campbell El Paso, Texas 79901

Notwithstanding the termination notice provisions in this Agreement, the failure of the Company to provide the City's Purchasing Director with the above proof of insurance prior to beginning work and thereafter prior to the beginning of each year of the term of this Agreement, shall constitute a default on the part of the Company entitling the City, upon three (3) days written notice to the Company to terminate this Agreement. This default provision shall also apply to the proof of insurance requirements under circumstances where a policy is canceled or expires during a given year of the Agreement. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that the Company, throughout the term of this Agreement, continuously and without interruption, maintain in force the required insurance coverage set forth above. Failure of the Company to comply with this requirement shall constitute a default of the Company allowing the City, at its option, to terminate this Agreement as referenced above.

SECTION XIV. INDEMNIFICATION. THE COMPANY OR ITS INSURER SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS ELECTED OFFICIALS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF THE CITY, INDIVIDUALLY OR COLLECTIVE, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH OF PROPERTY DAMAGE, MADE UPON THE CITY DIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO THE COMPANY'S ACTIVITIES UNDER THIS AGREEMENT FOR THIRD PARTY CLAIMS ADMINISTRATION AND MEDICAL COST CONTAINMENT, INCLUDING ANY ACT OR OMISSION BY THE COMPANY, ITS AGENTS, EMPLOYEES OR SUBCONTRACTORS WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL, WITHOUT HOWEVER, WAIVING AND GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY PERSON OR ENTITY. WITHOUT MODIFYING THE CONDITIONS OF PRESERVING, ASSERTING, OR ENFORCING ANY LEGAL LIABILITY AGAINST THE CITY AS REQUIRED BY THE CITY CHARTER OR ANY LAW, THE CITY WILL PROMPTLY FORWARD TO THE COMPANY EVERY DEMAND, NOTICE, SUMMONS OR OTHER PROCESS RECEIVED BY THE CITY IN ANY CLAIM OR LEGAL PROCEEDING CONTEMPLATED HEREIN. IN ADDITION, THE COMPANY SHALL PROMPTLY ADVISE THE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY OR THE COMPANY KNOWN TO THE COMPANY RELATED TO OR ARISING OUT OF THE COMPANY'S ACTIVITIES UNDER THIS AGREEMENT. THE COMPANY WILL: 1) INVESTIGATE OR CAUSE THE INVESTIGATION OF ACCIDENTS OR OCCURRENCES **INVOLVING SUCH INJURIES OR DAMAGES: 2) NEGOTIATE OR CAUSE TO BE NEGOTIATED** THE CLAIM AS THE COMPANY MAY DEEM EXPEDIENT; AND 3) DEFEND OR CAUSE TO BE DEFENDED ON BEHALF OF THE CITY ALL SUITS FOR DAMAGES EVEN IF GROUNDLESS, FALSE OR FRAUDULENT, BROUGHT BECAUSE OF SUCH INJURIES OR DAMAGES. THE COMPANY WILL PAY ALL JUDGMENTS FINALLY ESTABLISHING LIABILITY OF THE CITY IN ACTIONS DEFENDED BY THE COMPANY PURSUANT TO THIS SECTION ALONG WITH ALL ATTORNEYS' FEES AND COSTS INCURRED BY THE CITY INCLUDING INTEREST ACCRUING TO THE DATE OF PAYMENT BY THE COMPANY, AND PREMIUMS ON ANY APPEAL BONDS. THE CITY, AT ITS ELECTION WILL HAVE THE RIGHT TO PARTICIPATE IN ANY SUCH NEGOTIATIONS OR LEGAL PROCEEDINGS TO THE EXTENT OF ITS INTEREST WITHOUT RELIEVING COMPANY OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH. THE CITY WILL NOT BE RESPONSIBLE FOR ANY LOSS OF OR DAMAGE TO THE COMPANY'S **PROPERTY FROM ANY CAUSE.** 

**SECTION XV. TERMINATION OF AGREEMENT**. This Agreement may be terminated under any one of the following circumstances:

A. TERMINATION FOR CONVENIENCE: This Agreement may be terminated by City for convenience upon written notice, provided such notice specifies an effective date for cancellation of not less than thirty (30) calendar days from the date such notice is received. It is also understood and agreed that upon such notice of termination, the Company shall cease all services under this Agreement. Upon such termination, the Company shall provide a final invoice for all work completed prior to the City's notice of termination. The City shall compensate the Company in accordance with this Agreement; however, the City may withhold any payment to the Company for the purpose of set off until such time as the exact amount of damages due the City from the Company is determined. Nothing contained herein, or elsewhere in this Agreement, shall require the City to pay for any work which is unsatisfactory, incomplete or not in compliance with the terms of this Agreement and its attachments.

**B. TERMINATION FOR DEFAULT:** It is further understood and agreed by the Company and the City that either party may terminate this Agreement for cause. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate after thirty (30) consecutive calendar days, enumerating

the failures for which the termination is being sought; b) a minimum of fifteen (15) consecutive calendar days to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination.

However, the City retains the right to immediately terminate this Agreement for default if the Company fails to maintain its licenses, certifications and other standards required to be a qualified Company pursuant and the laws of the State of Texas or violates any local, state or federal laws. In the event of termination by the City pursuant to this subsection, the City may withhold payments to the Company for the purpose of set off until such time as the exact amount of damages due the City from the Company is determined.

### SECTION XIV. GENERAL PROVISIONS.

A. TIME IS OF THE ESSENCE. The Company understands and agrees that time is of the essence for all services and deliverables requested herein and that all tasks of this Agreement are to be completed as expeditiously as possible.

**B. ADVERTISING.** Neither party will advertise or publish, without the other party's consent, the fact that the City has entered into this contract, except to comply with proper requests for information from an authorized representative of the federal, state, or local government.

C. SUCCESSOR AND ASSIGNS. The Company shall not assign or attempt to convey an interest in this Agreement without the prior written consent of the City. This Agreement shall be terminable, at the discretion of the City, without notice to the Company if the Company shall attempt to assign without prior written consent.

**D. VENUE.** For purpose of determining 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.

**E. LEGAL CONSTRUCTION.** Every provision of this Agreement is severable, and 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 this Agreement. Where the context of the Agreement require, the singular shall include the plural and the masculine gender shall include feminine. Any reference to the City Manager in this Agreement shall mean the City Manager of the City of El Paso or his designee.

**F. COMPLIANCE WITH LAW.** The Company shall comply with all Federal, State and local laws and ordinances applicable to the work contemplated herein.

**G. NOTICE.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other party be in writing and either personally delivered or sent via certified mail, return receipt requested, postage prepaid, to the following addresses:

CITY:

City of El Paso Attn: City Manager P.O. Box 1890 El Paso, Texas 79950-1890

With Copy to:	City of El Paso Police Chief 911 North Raynor St El Paso, TX 79903
COMPANY:	Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers Bianca Barrett 6320 Gateway East El Paso, TX 79905

Changes may be made to the names and addresses noted herein through timely written notice to the other party.

**H. FORCE MAJEURE.** The Company shall not be responsible or liable for any loss, damages or delay caused by f orce majeure which is beyond the control of the parties to this Agreement, including but not limited to riot, insurrection, embargo, fire or explosion, the elements, acts of nature, epidemic, war, earthquake, flood or the official act of any government.

**I. COMPLETE AGREEMENT.** This Agreement constitutes and expresses the entire agreement between the parties hereto in reference to the services described in this Agreement for the City, and

in reference to any of the matters or things herein provided for, or hereinbefore discussed or mentioned in reference to such services, all promises, representations and understanding relative thereto herein being merged.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement in El Paso, Texas effective as of the first date appearing heretofore.

[Signature page to follow]

STATE OF TEXAS

COUNTY OF EL PASO

**APPROVED AS TO FORM:** 

Senior Assistant City Attorney

Juan S. Gonzalez

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### PROFESSIONAL SERVICE AGREEMENT FOR PHYSICAL EXAMS AND DRUG TESTING SCREENING FOR THE POLICE DEPARTMENT

**IN WITNESS WHEREOF**, the parties have hereunto set their hands this \_\_\_\_\_ day of \_\_\_\_, 20\_\_\_.

<u>CITY</u>: CITY OF EL PASO:

Tomás González City Manager

### **APPROVED AS TO CONTENT:**

Claudia A. Garcia, Interim Director Purchasing & Strategic Sourcing

### **APPROVED AS TO CONTENT:**

Gregory Allen, Chief El Paso Police Department

<u>COMPANY</u>: Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers

Name:\_\_\_\_\_

Title:\_\_\_\_\_

### EXHIBIT A

### SCOPE OF WORK

### Scope of Work and Minimum Requirements

### PHYSICAL EXAMINATIONS

Scope of Services and Method of Compensation

- A. Contractor will perform physical examinations and drug screenings on all policy academy applicants for uniformed positions in the Police department, on all individuals being considered for reinstatement into uniformed positions in the Police department, and on all employees being considered for admittance to the Hazardous Devices School.
- B. The general physical examination and drug screening for police academy applicants and department reinstatements must be sufficient to screen for the diseases and conditions outlined in Attachment B (Medical Standards) and Attachment C (Medical Evaluations Guidelines). The general physical examination for employees being considered for admittance to the Hazardous Devices School, must be sufficient to screen for the diseases and conditions outlined in Attachment E (Hazardous Devices School Medical Packet)
- C. All physical examinations shall include a complete physical examination, including, but not limited to an electrocardiogram, chest x-ray (two views), lumbar spine (three views), auditory and visual testing, and drug screening.
- D. Physical examinations must include auditory and visual testing:
  - 1. Auditory testing must be done with an audiometer, preferably in a sound-proof room. Bidder should indicate the type and model of equipment to be used and qualifications of technicians administering tests. Additionally, the Bidder must guarantee that the equipment is calibrated as recommended by the manufacturer.
  - 2. Vision testing must include testing for:
    - near visual acuity
    - far visual acuity
    - peripheral vision
    - refractive error
    - color vision

Bidders should specify method and equipment to be used to test vision and state qualifications of technicians who will administer tests. Additionally, the Bidders must guarantee that the equipment is calibrated as recommended by the manufacturer.

3. These physical examinations must be conducted by a licensed physician.

- 4. The licensed physician conducting the physical examination shall complete an examination form (Attachment A) as provided by the City on each individual for Police as appropriate, and return this form to the Departmental Human Resources Manager.
- 5. Contractor shall return all results of the physical examinations, as specified above, to the Departmental Human Resources Manager within two business days upon completion of the examination.
- 6. Contractor will perform clinical laboratory tests as follows:
  - a. Contractor will perform clinical laboratory tests only for eligible individuals selected as applicants for uniformed positions in the Police departments, and all individuals being considered for reinstatement into uniformed positions in those departments as follows:

Serology: CBC, STS, FBS, SMA, WBC, and RBC Urinalysis: SPG, Blood, Albumin, Microscopic EKG: Computerized with three channels and physical reading Radiology: Chest X-Ray (two views), Lumbar Spine, (three views) to include Radiologist's interpretation Spirometry: To include physical interpretation

The abbreviations used above are defined as follows:

- CBC: Complete Blood Count
- Blood: Hemoglobin Platelet Count
- WBC: White Blood Count Hematocrit
- RBC: Red Blood Count
- SPG: Specific Gravity
- FBS: Fasting blood sugar
- EKG: Electrocardiogram
- STS: Standard test for syphilis
- SMA: Sequential modular analysis
- b. City shall not pay for any additional testing done without City's prior authorization.
- 7. All results of clinical laboratory testing, as specified above, must be returned to the Departmental Human Resources Manager, within two business days upon completion of the examination date. Contractor expressly understands and agrees that all results from the tests to be performed by the Contractor under the terms and conditions of this contract shall at all times remain strictly confidential.

Physical examinations are subject to the terms and conditions as specified in this contract and the terms and conditions of Attachment B, Attachment C, and Attachment E as applicable.

E. Drug Screening will include a 10 panel test. Urine specimens will be analyzed for at least the following drugs and any adulterants (others may be added):

i. Marijuana (THC metabolite)ii. Cocaineiii. Amphetamines

iv. Opiates (including heroin)
v. Phencyclidine (PCP)
vi. Barbiturates
vii. Benzodiazepines
viii. Methodone
ix. Methaqualone
x. Propoxyphene

### **II. GENERAL INFORMATION**

- A. Forms to be completed and signed by physician include Attachments D and E as applicable.
- B. Each applicant shall provide Contractor with a waiver permitting Contractor to disclose to the
- C. Departmental Human Resources Manager or her designee the results of such tests as must be as administered to such applicant under the terms and conditions of this contract.
- D. Contractor shall perform all duties as specified under this contract with such reasonable care, skill and diligence as would be practiced by the medical and scientific community, as applicable, within the county of El Paso, Texas.
- E. The City will be obligated to honor a demand for payment for services rendered by the Contractor under the terms of this contract only if such demand for payment is made by the Contractor, and only if such demand for payment conforms to the rates for compensation as per award.
- F. Contractor shall ensure applicants and/or employees that undergo physical exams and drug screening are not in advertently billed for said exams.
- G. Contractor shall perform services as per specifications and only as specified by the terms and conditions in this contract, for up to and including twenty-five (25) individuals per week upon reasonable notice from the City and send the results to the Departmental Human Resources Manager within two (2) days of the date of examination.
- H. At the termination of the contract, all medical records produced or obtained as a product of the contract will be forwarded to the City or such other place as the City may designate. All records will be forwarded within twenty-four (24) hours of contract termination.

#### III. ADDITIONAL REQUIREMENTS

- A. The bidder must specify the names and qualifications of all physicians who will be performing the examinations. Any additional doctors must be submitted to the City for approval prior to performing the examinations. The City will not pay for any physicals performed by physicians who do not have City approval.
- B. The contractor must be certified by the College American Pathologist or equivalent industry sponsored board or governmental agency. Medical technicians must be directly supervised by an individual with a Ph.D. in chemistry.
- C. The bidder must specify how physicians will be kept fully informed of the City's standards, procedures and requirements and of any subsequent changes. Additionally, specify how

doctors, if more than one, will consistently apply and interpret the City's requirements.

Should the bidder need to outsource any portion of the examinations, the bidder must first obtain City approval and ensure there is no additional cost or hardship to the City.

#### IV. Invoicing

- a. The Contractor shall submit monthly invoices, in single copy, on each contract, within 15 days after the end of the billing cycle, to the El Paso Police Human Resources Division; Attention: Carlos Ramirez. Invoices covering more than one contract will not be accepted.
- b. Invoices shall be itemized and transportation charges, if any, shall be listed separately.
- c. Invoices shall reflect the Contract Number and Purchase Order Number.
- d. Contractor shall designate a contact person to address billing issues.
- e. The Contact person will respond to billing issues within twenty-four (24) hours, and shall have the authority to respond by taking corrective action or making necessary adjustments, if needed.
- f. Do not include federal, state, or City sales tax. City shall furnish tax exemption certificate if requested.
- g. Discounts will be taken from the date of receipt of services or date or invoice, whichever is later.
- h. The City's obligation is payable only and solely from funds available for the purpose of this service. Lack of funds shall render this contract null and void to the extent funds are not available and any delivered but unpaid for goods will be returned to the Contractor by the City.
- i. Contractor shall advise the City of any changes in its remittance addresses.

### EXHIBIT B

# **COMPENSATION**

ITEM	DESCRIPTION	Units	Unit Price Per Test	Total
1	Pre-Employment Physical Exams	92	\$658.00	\$60,536.00
2	Reinstatement Physical Exams	4	\$189.00	\$756.00
3	Hazardous Devices School Applicant Exams	5	\$693.00	\$3,465.00
4	Drug Testing for all Physical Exams	101	\$40.00	\$4,040.00
		G	rand Total:	\$68,797.00

# EXHIBIT C

# **BUSINESS ASSOCIATE AGREEMENT**

[FOLLOWS]

### STATE OF TEXAS

### HIPAA BUSINESS ASSOCIATE AGREEMENT

### COUNTY OF EL PASO

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**THIS AGREEMENT** is entered into on \_\_\_\_\_, 20\_\_\_ by and between the CITY OF EL PASO, TEXAS ("CITY"), as the Covered Entity, and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers, ("BUSINESS ASSOCIATE") by and through their duly authorized officials, in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information ("PHI") and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as "HIPAA"). Covered Entity and Business Associate may be referred to herein individually as a "Party" or collectively as the "Parties".

### RECITALS

WHEREAS, CITY has engaged BUSINESS ASSOCIATE to perform physical examinations and drug screenings on all police academy applicants, Police Department employees considered for reinstatement, and Police Department employees considered for admittance to the Hazardous Devices School; and

WHEREAS, CITY possesses individually identifiable health information that is defined in and protected under HIPAA, and is permitted to use or disclose such information only in accordance with HIPAA; and

WHEREAS, BUSINESS ASSOCIATE may receive such information from CITY, or create and receive such information on behalf of CITY, in order to perform certain of the services or provide certain of the goods, or both; and

**WHEREAS,** CITY wishes to ensure that BUSINESS ASSOCIATE will appropriately safeguard individually identifiable health information;

NOW THEREFORE, CITY and BUSINESS ASSOCIATE agree as follows:

### A. HIPAA Terms

- 1. **Definitions**. The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear, or as provided in (1)(h) to this Section.
  - a. **Agreement** shall refer to this document.

b. Business Associate means Occupational Health Centers of the

Southwest, P.A. dba Concentra Medical Centers

c. **HHS Privacy Regulations** shall mean the Code of Federal Regulations ("C.F.R.") at Title 45, Sections 160 and 164, in effect, or as amended.

d. **Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term "individual" is defined in 45 C.F.R. 164.501.

e. **Information** shall mean any "health information" provided and/or made available by the CITY to BUSINESS ASSOCIATE, and has the same meaning as the term "health information" as defined by 45 C.F.R. 160.102.

f. **Parties** shall mean the CITY and BUSINESS ASSOCIATE.

g. **Secretary** shall mean the Secretary of the Department of Health and Human Services ("HHS") and any other officer or employee of HHS to whom the authority involved has been delegated.

h. **Catch-all definition:** The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. Part 160 and 164, in effect, or as amended: breach, data aggregation, designated record set, disclosure, health care operations, protected health information, required by law, subcontractor, and use.

- 2. Limits on Use and Disclosure Established by Terms of Agreement. BUSINESS ASSOCIATE hereby agrees that it shall be prohibited from using or disclosing the Information provided or made available by the CITY for any other purpose other than as expressly permitted or required by this Agreement (ref. 45 C.F.R. 164.504(e)(2)(i).)
- 3. Stated Purposes for which BUSINESS ASSOCIATE May Use or Disclose Information. The Parties hereby agree that BUSINESS ASSOCIATE shall be permitted to use and/or disclose Information provided or made available from CITY for the following stated purposes: To provide <u>public health</u>, research, and related support services (service) to the community of the CITY for the mutual benefit and general welfare of BUSINESS ASSOCIATE and the CITY (ref. 45 C.F.R. 164.504(e)(2)(i); 65 Fed. Reg. 82505.)
- 4. Use of Information for Management, Administrative and Legal Responsibilities. BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper management and administration

of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 45 C.F.R. 164.504(e)(4)(i)(A-B)).

- 5. **Disclosure of Information for Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from CITY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:
  - a. The disclosure is required by law; or

b. The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the information has been breached. (ref. 45 C.F.R. 164.504(e)(4)(ii)).

6. **Data Aggregation Services.** BUSINESS ASSOCIATE is also permitted to use or disclose Information to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of CITY. (ref. 45 C.F.R. 164.504(e)(2)(i)(B)).

# 7. BUSINESS ASSOCIATE OBLIGATIONS:

- a. Limits on Use and Further Disclosure Established by Agreement and Law. BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by the CITY shall not be further used or disclosed other than as permitted or required by the Agreement or as required by federal law. (ref. 45 C.F.R. 164.504(e)(2)(ii)(A)).
- **b. Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the Information, other than as provided for by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(B)).
- c. Reports of Improper Use or Disclosure. BUSINESS ASSOCIATE hereby agrees that it shall report to CITY within two
   (2) days of discovery any use or disclosure of Information not provided for or allowed by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(C)).

- d. **Subcontractors and Agents.** BUSINESS ASSOCIATE hereby agrees that any time Information is provided or made available to any subcontractors or agents, BUSINESS ASSOCIATE must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of Information as contained in this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(D)).
  - (i) 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2). In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BUSINESS ASSOCIATE agrees to ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of BUSINESS ASSOCIATE agree in writing to the same restrictions and conditions that apply through this Agreement to BUSINESS ASSOCIATE with respect to such Information.
- e. Right of Access to Information. BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to Information by an Individual. This right of access shall conform with and meet all of the requirements of Section 181.102 of the Texas Health and Safety Code, requiring that not later than the 15th business day after the date of the receipt of a written request from a person for the person's electronic health record, BUSINESS ASSOCIATE shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form, and with any further requirements of 45 C.F.R. 164.524, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(E)).
- f. Correction of Health Information by Individuals. BUSINESS ASSOCIATE shall, upon receipt of notice from the CITY, amend or correct protected health information (PHI) in its possession or under its control.
- **g.** Amendment and Incorporation of Amendments. BUSINESS ASSOCIATE agrees to make Information available for amendment and to incorporate any amendments to Information in accordance with 45 C.F.R. 164.504(e)(2)(ii)(F)).
- h. **Provide Accounting.** BUSINESS ASSOCIATE agrees to make Information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, including

substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(G)).

- i. Access to Books and Records. BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to the use or disclosure of Information received from, or created or received by BUSINESS ASSOCIATE on behalf of the CITY, available to the Secretary or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations. (ref. 45 C.F.R. 164.504(e)(2)(ii)(H)).
- **j. Return or Destruction of Information.** At the termination of this Agreement, BUSINESS ASSOCIATE hereby agrees to adhere to Section B.3. of this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(I)).
- k. Mitigation Procedures. BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of Information in a manner contrary to this Agreement or the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(f)).
- I. Sanction Procedures. BUSINESS ASSOCIATE agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement of the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(e)(1)).
- m. Subpart E of 45 C.F.R. Part 164. To the extent BUSINESS ASSOCIATE is to carry out one or more of CITY'S obligations under Subpart E of 45 C.F.R. Part 164, BUSINESS ASSOCIATE shall comply with the requirements of Subpart E that apply to CITY in the performance of such obligation(s).
- n. Prohibition against the Sale of Protected Health Information. The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.153, and any amendments of that section.
- o. Notice and Authorization Required for Electronic Disclosure of PHI. The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.154, and any amendments of that section, regarding the requirement of providing notice to an Individual for whom the BUSINESS ASSOCIATE creates or receives protected health information if

the Individual's PHI is subject to electronic disclosure.

- **p.** State Law on Medical Records Privacy. The BUSINESS ASSOCIATE shall abide by the requirements set forth in Texas Health and Safety Code Section 181.001 et. seq., and any amendments of that chapter.
- 8. **Property Rights.** The Information shall be and remain the property of the CITY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified Information, as a result of this Agreement.
- 9. **Modifications**. The CITY and BUSINESS ASSOCIATE agree to modify this Business Associate Agreement, in order to comply with Administrative Simplification requirements of HIPAA, as set forth in Title 45, Parts 160 and 164, (Subparts A and E the "Privacy Rule" and Subparts A and C the "Security Rule") of the Code of Federal Regulations.
- 10. **Automatic Amendment**. Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Agreement shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

# B. Term and Termination

- Term. The Term of this Agreement shall be effective as of the date this Agreement is executed and shall remain in effect for the same term as the Professional Service Agreement with <u>Occupational Health Centers</u> of the Southwest, P.A. dba Concentra Medical Centers for stress management services for the fire department or shall terminate on the date covered entity terminates for cause as authorized in paragraph (B.2.) of this Section, whichever is sooner.
- 2. **Termination for Cause**. Upon the CITY's knowledge of a material breach by BUSINESS ASSOCIATE, the CITY shall:
  - a. Provide an opportunity for BUSINESS ASSOCIATE to cure the breach or end the violation, and terminate if BUSINESS ASSOCIATE does not cure the breach or end the violation within the time specified by the CITY.
  - b. Immediately terminate the Business Associate Agreement if BUSINESS ASSOCIATE has breached a material term of this

Business Associate Agreement and cure is not possible.

- c. Notify the Secretary of HHS if termination is not possible.
- 3. **Obligations of Business Associate Upon Termination.** Upon termination of this Agreement for any reason, BUSINES ASSOCIATE, with respect to protected health information received from CITY, or created, maintained, or received by BUSINESS ASSOCIATE on behalf of CITY, shall:
  - a. Retain only that protected health information which is necessary for BUSINESS ASSOCIATE to continue its proper management and administration or to carry out its legal responsibilities;
  - Return to CITY, or, if agreed to by CITY, destroy, the remaining protected health information that the BUSINESS ASSOCIATE still maintains in any form and BUSINESS ASSOCIATE shall certify to the CITY that the Information has been destroyed;
  - c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as BUSINESS ASSOCIATE retains the protected health information;
  - d. Not use or disclose the protected health information retained by BUSINESS ASSOCIATE other than for the purposes for which such protected health information was retained and subject to the same conditions set out at Section 1.e and 1.f above, which applied prior to termination; and
  - e. Return to CITY or, if agreed to by CITY, destroy, the protected health information retained by BUSINESS ASSOCIATE when it is no longer needed by BUSINESS ASSOCIATE for its proper management and administration or to carry out its legal responsibilities.
  - f. Survival. The obligations of BUSINESS ASSOCIATE under this Section shall survive the termination of this Agreement.
- C. **Remedies.** If CITY determines that BUSINESS ASSOCIATE has breached or violated a material term of this Agreement, CITY may, at its option, pursue any and all of the following remedies:
  - 1. Exercise any of its rights of access and inspection under Section A.7.e.

of this Agreement;

- 2. Take any other reasonable steps that CITY, in its sole discretion, shall deem necessary to cure such breach or end such violation; and/or
- 3. Terminate this Agreement immediately.
- 4. Injunction. CITY and BUSINESS ASSOCIATE agree that any violation of the provisions of this Agreement may cause irreparable harm to CITY. Accordingly, in addition to any other remedies available to CITY at law, in equity, or under this Agreement, in the event of any violation by BUSINESS ASSOCIATE of any of the provisions of this Agreement, or any explicit threat thereof, CITY shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages. The parties' respective rights and obligations under this Section C.4. shall survive termination of the Agreement.
- 5. Indemnification. To the extent allowed and not otherwise prohibited by Texas law, BUSINESS ASSOCIATE shall indemnify, hold harmless and defend CITY from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, the acts or omissions of BUSINESS ASSOCIATE in connection with the representations, duties and obligations of BUSINESS ASSOCIATE under this Agreement. The parties' respective rights and obligations under this Section 5 shall survive termination of the Agreement.

# D. Miscellaneous

- 1. **<u>Regulatory References</u>**. A reference in this Agreement to a HIPAA section means the section as in effect or as amended.
- 2. <u>Amendment</u>. CITY and BUSINESS ASSOCIATE agree that amendment of this Agreement may be required to ensure that CITY and BUSINESS ASSOCIATE comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of protected health information. CITY may terminate this Agreement upon 60 days written notice in the event that BUSINESS ASSOCIATE does not promptly enter into an amendment that CITY, in its sole discretion, deems sufficient to ensure that CITY will be able to comply with such laws and regulations. This Agreement may not otherwise be amended except by written agreement between the parties and signed by duly authorized representatives of both parties.

- 3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
- 4. **Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.
  - CITY: City of El Paso Attn: City Manager P. O. Box 1890 El Paso, Texas 79950-1890
- COPY TO: City of El Paso Police Chief 911 North Raynor St El Paso, TX 79903
- BUSINESS ASSOCIATE: Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers Bianca Barrett 6320 Gateway East El Paso, TX 79905
  - 5. **Non-Waiver.** No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.
  - 6. **Headings**. The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.
  - 7. **Governing Law. Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its principles of conflict of laws, with venue in El Paso County, Texas.

- 8. <u>Compliance with Laws</u>. BUSINESS ASSOCIATE agrees that its obligations pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, BUSINESS ASSOCIATE reserves the right to notify CITY in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.
- 9. <u>Severability</u>. In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.
- 10. **No Third Party Beneficiaries**. Nothing express or implied in this Agreement is intended or shall be deemed to confer upon any person other than CITY and BUSINESS ASSOCIATE, and their respective successors and assigns, any rights, obligations, remedies or liabilities.
- 11. Entire Agreement: Counterparts. This Agreement constitutes the entire Agreement between CITY and BUSINESS ASSOCIATE regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document.

(Signatures follow on next page)

STATE OF TEXAS COUNTY OF EL PASO

# HIPAA BUSINESS ASSOCIATE AGREEMENT

Signature Page

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the \_\_\_\_\_day of \_\_\_\_\_, 20\_\_\_.

**CITY OF EL PASO** 

APPROVED AS TO FORM:

Juan S. Gonzalez

)

Sr. Assistant City Attorney

Tomás González City Manager

APPROVED AS TO CONTENT:

Gregory Allen hief El Paso Police Department

**BUSINESS ASSOCIATE** 

Signature:	
Name Printed:	
Title:	

2023-0182 | Physical Exams & Testing (PD) | Concentra | 22-1044-1733 | 1214938\_2 | jsg

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Legislation Text

#### File #: 22-1506, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.* 

All Districts Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Fire, Chief Johnathan P. Killings, (915) 493-5609

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* **The linkage to the Strategic Plan is subsection 2.3 - Increase Public Safety Operational Efficiency.** 

A Resolution to request that the Purchasing Director is authorized to notify El Paso Healthcare System, Ltd, dba Las Palmas Del Sol Healthcare that the City is terminating awarded Contract No. 2018-555R Baseline Physical Exams for Firefighters for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

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

AGENDA DATE: PUBLIC HEARING DATE:	November 22, 2022 Not Applicable	
CONTACT PERSON(S) NAME	<b>E AND PHONE NUMBER:</b> Jonathan P. Killings, Interim Fire Chief, (915) 493-5609 Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218	
DISTRICT(S) AFFECTED:	ALL	
STRATEGIC GOAL:	No. 2 – Set the Standard for a Safe and Secure City	
SUBGOAL:	2.3 Increase Public Safety Operational Efficiency	

#### SUBJECT:

Request That the Purchasing Director is authorized to notify Vendor that City is terminating awarded Contract No. 2018-555R Baseline Physical Exams for Firefighters for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

#### BACKGROUND / DISCUSSION:

El Paso Healthcare System, Ltd, dba Las Palmas Del Sol Healthcare informed the City on August 18, 2022 that it was not going to be able to continue performing services due to staffing constraints effective September 30, 2022.

#### SELECTION SUMMARY:

N/A

#### CONTRACT VARIANCE:

N/A

#### PROTEST

No protest received for this requirement.

#### **PRIOR COUNCIL ACTION:**

On May 1, 2018 City Council approved the award of Contract 2018-555R to El Paso Healthcare System, Ltd, dba Las Palmas Del Sol Healthcare for a three (3) year term and two (2) year- option to extend the contract for a total amount of \$1,931,732.80.

#### AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_X\_ YES \_\_\_NO

#### **PRIMARY DEPARTMENT:** Fire Department

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

#### 

**DEPARTMENT HEAD:** 

Jonathan P. Killings, Interim Fire Chief

2018-555R Baseline Physical Exams for Firefighters

#### COUNCIL PROJECT FORM (Termination)

#### 

Please place the following item on the **REGULAR AGENDA** for the Council Meeting of **November 22, 2022.** 

#### STRATEGIC GOAL: No. 2 – Set the Standard for a Safe and Secure City

The linkage to the Strategic Plan is subsection 2.3 Increase Public Safety Operational Efficiency

Request that the Purchasing Director is authorized to notify El Paso Healthcare System, Ltd, dba Las Palmas Del Sol Healthcare that City is terminating awarded Contract No. 2018-555R Baseline Physical Exams for Firefighters for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

### THE CITY OF EL PASO:

Oscar Lesser Mayor

### **APPROVED AS TO CONTENT:**

Claudia A. Garcia, Interim Director Purchasing & Strategic Sourcing

#### RESOLUTION

WHEREAS, on May 18, 2018 the City of El Paso ("City") awarded Contract No. 2018-555R Baseline Physical Exams for Firefighters to El Paso Healthcare System, LTD, dba Las Palmas Del Sol Healthcare ("Vendor"):

WHEREAS, the City desires to terminate the Contract for Default, pursuant to the provisions of Section XII.B. of the Contract.

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

That the Purchasing Director is authorized to notify Vendor that City is terminating awarded Contract No. 2018-555R Baseline Physical Exams for Firefighters for Default pursuant to the provisions and requirements of the Contract, and that the termination shall be effective as of November 22, 2022.

APPROVED this day of , 2022.

# Laura D. Prine

City Clerk

### **APPROVED AS TO FORM:**

Juan S. Gonzalez

Senior Assistant City Attorney

### **APPROVED AS TO CONTENT:**

Interim Fire Chief, Jonathan P. Killings

**ATTEST:** 



Legislation Text

File #: 22-1486, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

Districts 1, 2, 3, 5, 8 Environmental Services, Ellen A. Smyth, (915) 212-6000

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

That the Solid Waste liens on the attachment posted with this agenda be approved (See Attachment A).

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Ellen A. Smyth, (915) 212-6000

**DISTRICT(S) AFFECTED:** 1, 2, 3, 5, 8

STRATEGIC GOAL: Goal 3 – Promote the Visual Image of El Paso

SUBGOAL:

<u>SUBJECT:</u> That the Solid Waste liens on the attachment posted with this agenda be approved (See Attachment A)

BACKGROUND / DISCUSSION: N/A

PRIOR COUNCIL ACTION: N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_X\_ YES \_\_\_NO

**PRIMARY DEPARTMENT:** Environmental Services Department **SECONDARY DEPARTMENT:** 

#### 

DEPARTMENT HEAD:

Muhalas H. Manua Nicholas Ybarra for Ellen Smyth

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

### ATTACHMENT A

### SOLID WASTE LIENS

## November 22, 2022

Address	Owner of Record	Amount	District
407 CLAYTON AVE	CROWDER DARLINA	\$336.50	1
453 CHESAK CIR	DEGUIRE OLGA (ET AL)	\$481.00	2
632 BARCELONA DR	REYES RAQUEL	\$405.50	2
6295 ALAMEDA AVE	STATE OF TEXAS C/O DISTRICT ATTY 34 <sup>TH</sup> JUD DIST	\$481.00	2
370 S GLENWOOD ST	GUZMAN PAUL M	\$508.00	2
428 JENSEN AVE	GALVAN EVANGELINA	\$352.00	3
1828 JOAN FRANCIS ST	JACKSON PAMELA W	\$348.50	5
1415 E YANDELL DR	CAMPOS JESUS R	\$339.00	8

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, CROWDER DARLINA, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

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

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

> 407 Clayton Ave, more particularly described as Tr 15-E (1.00 Ac), Block 6, Upper Valley Subdivision, City of El Paso, El Paso County, Texas, PID #U819-999-006A-1005

to be \$336.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 21st day of January, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED THIRTY SIX AND 50/100 DOLLARS (\$336.50) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

APPROVED AS TO FORM:

Wed N. Vingad

Wendi Vineyard Assistant City Attorney

APPROVED AS TO CONTENT:

Ellen A. Smyth, P.E. Chief Transit and Field Operations Officer Environmental Services Department

#### STATE OF TEXAS

#### COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas Notary's Printed or Typed Name:

My Commission Expires:

#### **PREPARED IN THE OFFICE OF:**

Office of the City Attorney P.O Box 1890 El Paso, Texas 79950-1890

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

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WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, DEGUIRE OLGA (ET AL), referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

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

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

> 453 Chesak Cir, more particularly described as Lot 5 (10134 Sq FT), Block 1, Chesak Place Subdivision, City of El Paso, El Paso County, Texas, PID #C360-999-0010-2100

to be \$481.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 11th day of December, 2020, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FOUR HUNDRED EIGHTY ONE AND 00/100 DOLLARS (\$481.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

APPROVED AS TO FORM:

Wed N. Vizad

Wendi Vineyard Assistant City Attorney

APPROVED AS TO CONTENT:

Clla

Ellen A. Smyth, P.E., Chief Transit and Field Operations Officer Environmental Services Department

#### STATE OF TEXAS

#### COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas Notary's Printed or Typed Name:

My Commission Expires:

#### **PREPARED IN THE OFFICE OF:**

Office of the City Attorney P.O Box 1890 El Paso, Texas 79950-1890

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

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WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, REYES RAQUEL, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

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

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

> 632 Barcelona Dr, more particularly described as Lot 10, Block 8, Clardy Fox Subdivision, City of El Paso, El Paso County, Texas, PID #C622-999-0080-1900

to be \$405.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 16th day of February, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FOUR HUNDRED FIVE AND 50/100 DOLLARS (\$405.50) to be a lien on the above described property, said amount being due and payable within ten (10) days

from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

APPROVED AS TO FORM:

Wed N. Vizad

Wendi Vineyard Assistant City Attorney

APPROVED AS TO CONTENT:

Ellen A. Smyth, P.E., Chief Transit and Field Operations Officer Environmental Services Department

#### STATE OF TEXAS

#### COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas Notary's Printed or Typed Name:

My Commission Expires:

#### **PREPARED IN THE OFFICE OF:**

Office of the City Attorney P.O Box 1890 El Paso, Texas 79950-1890

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

)

)

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, STATE OF TEXAS C/O DISTRICT ATTY 34<sup>TH</sup> JUD DIST, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

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

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

6295 Alameda Ave, more particularly described as Lot 7 (924 Ft On N & S & 190.9 Ft On E & W), Corbin Subdivision, City of El Paso, El Paso County, Texas, PID #C771-999-0000-4100

to be \$481.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 11th day of December, 2020, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FOUR HUNDRED EIGHTY ONE AND 00/100 DOLLARS (\$481.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

APPROVED AS TO FORM:

Wed N. Vigad

Wendi Vineyard Assistant City Attorney

APPROVED AS TO CONTENT:

Ellen A. Smyth, P.L., Chief Transit and Field Operations Officer Environmental Services Department

#### STATE OF TEXAS

#### COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas Notary's Printed or Typed Name:

My Commission Expires:

#### **PREPARED IN THE OFFICE OF:**

Office of the City Attorney P.O Box 1890 El Paso, Texas 79950-1890

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

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WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, GUZMAN PAUL M, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

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

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

> 370 S Glenwood St, more particularly described as S 55 Ft Of Lot 27 (Excw 10 Ft On St)(20185 Sq Ft), Block 6, Alameda Acres Subdivision, City of El Paso, El Paso County, Texas, PID #A438-999-0060-5101

to be \$508.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 17th day of February, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FIVE HUNDRED EIGHT AND 00/100 DOLLARS (\$508.00) to be a lien on the above described property, said amount being due and payable within ten (10) days

from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

APPROVED AS TO FORM:

Wed N. Vizad

Wendi Vineyard Assistant City Attorney

APPROVED AS TO CONTENT:

Ellen A. Smyth, P.E., Chief Transit and Field Operations Officer Environmental Services Department

#### STATE OF TEXAS

#### COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas Notary's Printed or Typed Name:

My Commission Expires:

#### **PREPARED IN THE OFFICE OF:**

Office of the City Attorney P.O Box 1890 El Paso, Texas 79950-1890

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

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WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, GALVAN EVANGELINA, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

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

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

> 428 Jensen Ave, more particularly described as Lot 8, Block D, Thomas Manor Subdivision, City of El Paso, El Paso County, Texas, PID #T240-999-000D-2900

to be \$352.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 22nd day of February, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED FIFTY TWO AND 00/100 DOLLARS (\$352.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

APPROVED AS TO FORM:

Wal N. Vingad

Wendi Vineyard Assistant City Attorney

APPROVED AS TO CONTENT:

Ellen A. Smyth, P.E. Chief Transit and Field Operations Officer Environmental Services Department

#### STATE OF TEXAS

#### COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas Notary's Printed or Typed Name:

My Commission Expires:

#### **PREPARED IN THE OFFICE OF:**

Office of the City Attorney P.O Box 1890 El Paso, Texas 79950-1890

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

))

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WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, JACKSON PAMELA W, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

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

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

1828 Joan Francis St, more particularly described as Lot 18 (4725.00 Sq Ft), Block 26, Montwood Heights #6 Subdivision, City of El Paso, El Paso County, Texas, PID #M771-999-0260-1800

to be \$348.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 20th day of April, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED FORTY EIGHT AND 50/100 DOLLARS (\$348.50) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

APPROVED AS TO FORM:

Wed N. Vigad

Wendi Vineyard Assistant City Attorney

APPROVED AS TO CONTENT:

Cela A

Ellen A. Smyth, P.E., Chief Transit and Field Operations Officer Environmental Services Department

#### STATE OF TEXAS

#### COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas Notary's Printed or Typed Name:

My Commission Expires:

#### **PREPARED IN THE OFFICE OF:**

Office of the City Attorney P.O Box 1890 El Paso, Texas 79950-1890

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

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WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, CAMPOS JESUS R, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

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

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

> 1415 E Yandell Dr, more particularly described as Lot 25 & E 8.333 Ft Of 24 (3960 Sq Ft), Block 61, Franklin Heights Subdivision, City of El Paso, El Paso County, Texas, PID #F607-999-0610-7100

to be \$339.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 22nd day of February, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED THIRTY NINE AND 00/100 DOLLARS (\$339.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

APPROVED AS TO FORM:

Wed N. Vigad

Wendi Vineyard Assistant City Attorney

APPROVED AS TO CONTENT:

Cela A

Ellen A. Smyth, P.E., Chief Transit and Field Operations Officer Environmental Services Department

#### STATE OF TEXAS

#### COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas Notary's Printed or Typed Name:

My Commission Expires:

#### **PREPARED IN THE OFFICE OF:**

Office of the City Attorney P.O Box 1890 El Paso, Texas 79950-1890

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

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Legislation Text

#### File #: 22-1499, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### District 2

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Providencia Velazquez, (915) 212-1567

#### AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution that pursuant to Title 3, Chapter 3.04, Section 3.04.035-Exemption-Historically Significant Sites of the El Paso City Code, the property owner (Michael Hwang) of property described as 124 Government Hill N 1/2 of 70 to 74 (8783 Sq Ft), in the City of El Paso, El Paso County, Texas, commonly known as 4768 Caples Circle is hereby exempt from any increase in the City's portion of the ad valorem taxes on the value of the improvement for a period of ten (10) years beginning on January 1, 2023 and ending December 31, 2032, provided that all City Code requirements are met.

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: November 22, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553

Providencia Velazquez, (915) 212-1567

DISTRICT(S) AFFECTED: 2

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.1 Provide business friendly permitting and inspection process 3.2 Set one standard for infrastructure across the city

#### SUBJECT:

A resolution that pursuant to Section 3.04-035-Exemption—Historically Significant Sites of the El Paso City Code, the property owner (Michael Hwang) of property described as 124 Government Hill N 1/2 of 70 to 74 (8783 Sq Ft), in the City of El Paso, El Paso County, Texas, commonly known as 4768 Caples Circle is hereby exempt from any increase in the City's portion of the ad valorem taxes on the value of the improvement for a period of ten (10) years beginning on January 1, 2023 and ending December 31, 2032, provided that all City Code requirements are met. (District 2)

#### **BACKGROUND / DISCUSSION:**

On December 20, 2018 the applicant submitted an application for the rehabilitation of the structure located at 4768 Caples Circle within the Austin Terrace historic district. The property was rehabilitated according to the guidelines so it qualifies for a historic tax exemption as per Chapter 3.04 (Property Taxes) of the El Paso City Code by adding Section 3.04.035 (Exemption – Historically Significant Sites), to provide an exemption from taxation of certain property taxes for renovations completed to historically significant properties and to encourage the preservation of such properties.

### PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING: N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? <u>X</u> YES <u>NO</u>

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division **SECONDARY DEPARTMENT:** N/A

DEPARTMENT HEAD:

Philip Eive

#### PLANNING AND INSPECTIONS DEPARTMENT

#### M E M O R A N D U M

DATE: November 22, 2022

TO: The Honorable Mayor and City Council Tomas Gonzalez, City Manager

**FROM:** Providencia Velázquez, Historic Preservation Officer

**SUBJECT:** Historic Tax Exemption

On December 20, 2018, the applicant submitted an application for the rehabilitation of the structure located at 4768 Caples Circle. The Historic Preservation Office determined that the site was a historically significant site in need of tax relief based on Section 3.04-035-Exemption—Historically Significant Sites of the El Paso Municipal Code:

• Located in a historic district and designated by council under Section 20.20.040 of this Code as a contributing property

On December 20, 2018, the applicant submitted a signed and sealed Tax Exemption application to the Historic Preservation Office. Historic Preservation staff has reviewed the application, supporting documentation, and conducted a site visit to determine if the scope of work was in compliance with the application.

Staff has determined that the completed work is in compliance with the submitted applications and determined the value of the improvements is equal to 50% or more of the assessed value of the site prior to rehabilitation. Therefore, the subject property is eligible to be exempted from payment of the City's portion of the assessed ad valorem taxes for a period of ten (10) years beginning on January 1, 2023 and ending December 31, 2032.

Attachments: Staff Report



#### City of El Paso – Staff Report

Application Type: Staff:	Historic Tax Exemption Providencia Velázquez, 915-212-1567, velazquezpx@elpasotexas.gov
Location:	4768 Caples Circle
Legal Description:	124 Government Hill N 1/2 of 70 to 74 (8783 Sq Ft), City of El Paso, El Paso
	County, Texas
Rep District:	2
Existing Use:	Residential
Request:	Historic Tax Exemption
Property Owner:	Michael Hwang
Representative:	Michael Hwang

#### **APPLICATION DESCRIPTION**

The property owner (Michael Hwang) submitted a signed and sealed Tax Exemption application dated December 20, 2018. Historic Preservation staff has reviewed the application, supporting documentation, and conducted a site visit to determine if the proposal was compliant with the application. Staff has determined that the completed work is in compliance with the submitted Certificate of Appropriateness and Tax Exemption applications and determined the value of the improvements is equal to 50% or more of the assessed value of the site prior to rehabilitation. Therefore, the subject property is eligible to be exempted from payment of the City's portion of the assessed ad valorem taxes for a period of ten (10) years beginning on January 1, 2023 and ending December 31, 2032.

#### PLANNING AND INSPECTIONS DEPARTMENT – HISTORIC PRESERVATION OFFICE RECOMMENDATION

The Historic Preservation Office recommends APPROVAL of the request.

#### **Attachments**

Attachment 1: Resolution

Attachment 2: Site Photograph

Attachment 3: Austin Terrace Historic District Map

WHEREAS, in December of 2018, the property owner submitted a signed and sealed tax exemption application under the requirements of the El Paso City Code section 3.04.035 for the rehabilitation of the property located at 4768 Caples Circle, in the City of El Paso, El Paso County, Texas, (the "Property") which is a contributing property within the Austin Terrace historic district, and such application was approved by staff;

WHEREAS, the Property owner submitted an application to the Historic Preservation Office for the work to be done on the Property in accordance with the requirements of the El Paso City Code Section 20.20.080(E);

WHEREAS, the Property owner completed the proposed improvements, and staff reviewed the application, the supporting documentation, and conducted a site visit to determine if the preservation work was compliant with the application;

WHEREAS, staff has determined that the work is substantially compliant with the original application and the Tax Exemption application, and the requirements of the section 3.04.035 of the El Paso City Code; and

WHEREAS, staff has determined that the Property is eligible for an exemption from any increase in the City's portion of the accessed ad valorem taxes for a maximum of ten (10) years in part because it is a contributing property in the Austin Terrace historic district.

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

 Pursuant to section 3.04.035 of the El Paso City Code, the property owner of property described as 124 Government Hill N 1/2 Of 70 To 74 (8783 Sq Ft) 4 Mills in the City of El Paso, El Paso County, Texas, commonly known as 4768 Caples Circle, is hereby exempt from any increase in the City's portion of the ad valorem taxes on the value of the improvement for a period of ten (10) years beginning on January 1, 2023 and ending December 31, 2032, provided that all City Code requirements are met. City Council finds that the value of the improvements is equal to 50% of the assessed value of the improvement on the site prior to rehabilitation, and the base improvement value prior to preservation was \$114,979.22.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

### THE CITY OF EL PASO

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

### **APPROVED AS TO FORM:**

Donald C. Davie

Donald Davie Assistant City Attorney

### **APPROVED AS TO CONTENT:**

Philip Ctive Philip Etiwe, Director

Philip Etiwe, Director Planning and Inspections Department







Legislation Text

### File #: 22-1501, Version: 1

# CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

### **Districts 2 and 8**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Armida R. Martinez, (915) 212-1605

### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

That the closure of rights-of-way within the City of El Paso for the Sun Bowl Thanksgiving Day Parade & Turkey Trot from 3:00 a.m. to 2:00 p.m. on Thursday, November 24, 2022, serves a public purpose of providing cultural and recreational activities for the residents and visitors of the City of El Paso, and in accordance with 43 TAC, Section 22.12, the City Manager be authorized to sign an Agreement For The Temporary Closure of State Right Of Way (Form TEA 30A) by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the temporary closure and use of State owned and operated street(s) in excess of four hours for portions of Copia St. between La Luz Ave. and Tularosa Ave. upon the issuance of required permits from the City of El Paso and substantial conformity to the finalized TEA30 agreement between the City of El Paso and State of Texas Department of Transportation. Applicant: Sun Bowl Association, CSEV22-00103

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553

Armida Martinez, (915) 212-1605

DISTRICT(S) AFFECTED: District 2 and 8

**STRATEGIC GOAL:** #4 Enhance El Paso's quality of life through recreational, cultural and educational environments

SUBGOAL: 4.2 Create innovative recreational, educational and cultural programs

### SUBJECT:

That the closure of rights-of-way within the City of El Paso for the Sun Bowl Thanksgiving Day Parade & Turkey Trot from 3:00 a.m. to 2:00 p.m. on Thursday, November 24, 2022, serves a public purpose of providing cultural and recreational activities for the residents and visitors of the City of El Paso, and in accordance with 43 TAC, Section 22.12, the City Manager be authorized to sign an Agreement For The Temporary Closure of State Right Of Way (Form TEA 30A) by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the temporary closure and use of State owned and operated street(s) in excess of four hours for portions of Copia St. between La Luz Ave. and Tularosa Ave. upon the issuance of required permits from the City of El Paso and substantial conformity to the finalized TEA30 agreement between the City of El Paso and State of Texas Department of Transportation. Applicant: Sun Bowl Association, CSEV22-00103

### **BACKGROUND / DISCUSSION:**

EVENT NAME:	Sun Bowl Thanksgiving Day Parade & Turkey Trot
PERMIT CASE NUMBER:	CSEV22-00103
EVENT DATE/HOURS:	Thursday, November 24, 2022, at 10:00 a.m. to 2:00 p.m.
TRAFFIC CONTROL:	Thursday, November 24, 2022, at 3:00 a.m. to 2:00 p.m.
STATE ROW IN USE:	Copia St. between La Luz Ave. and Tularosa Ave.
APPLICANT:	The Sun Bowl Association

# PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING: N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? <u>X</u> YES <u>NO</u>

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

DEPARTMENT HEAD:

Philip Tiwe

### **RESOLUTION**

WHEREAS, The Sun Bowl Association (hereinafter referred to as "Grantee") has submitted an application for a Special Event Permit as per Chapter 13.38 (Special Events) of the El Paso City Code, for the use and closure of rights-of-way within the City of El Paso's (hereinafter referred to as "the City") for the Sun Bowl Thanksgiving Parade & Turkey Trot from 3:00 a.m. to 2:00 p.m. on Thursday, November 24, 2022 (hereinafter referred to as the "Event"); and

WHEREAS, The Event will utilize both City and State rights-of-way: and

**WHEREAS,** The City of El Paso (hereinafter referred to as the "City") has found the Event serves a public purpose; and

**WHEREAS,** The State of Texas (hereinafter referred to as the "State") owns and operates a system of highways for public use and benefit, including Copia St. between La Luz Ave. and Tularosa Ave. within El Paso, Texas; and

**WHEREAS,** 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of portions of the State Highway System for periods of time exceeding four hours; and

WHEREAS, the State in recognition of the public purpose for the Event, provides a means of cooperating with the City for the temporary closure of State right-of-way, provided the closure is in accordance with the requirements of 43 TAC, Section 22.12 and the City enters into an Agreement for the Temporary Closure of State Right-of-Way for the Event (Form TEA 30A).

# NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF EL PASO:

That the closure of rights-of-way within the City of El Paso for the Sun Bowl Thanksgiving Parade & Turkey Trot from 3:00 a.m. to 2:00 p.m. on Thursday, November 24, 2022, serves a public purpose of providing cultural and recreational activities for the residents and visitors of the City of El Paso, and in accordance with 43 TAC, Section 22.12, the City Manager be authorized to sign an Agreement For The Temporary Closure of State Right Of Way (Form TEA 30A) by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the temporary closure and use of State owned and operated street(s) in excess of four hours for portions of Copia St. between La Luz Ave. and Tularosa Ave. upon the issuance of required permits from the City of El Paso and State of Texas Department of Transportation.

(Signatures on the following page)

CSEV22-00103

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**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF EL PASO:** 

Oscar Leeser, Mayor

**ATTEST:** 

Laura D. Prine, City Clerk

# **APPROVED AS TO FORM:**

au

Joyce Garcia Assistant City Attorney

# **APPROVED AS TO CONTENT:**

Philip Etiwe Philip F, Etiwe, Director

Planning & Inspections Department

22-1007-2999 | 1213992 Sun Bowl Thanksgiving Day Parade & Turkey Trot JG

CSEV22-00103

§ § §

STATE OF TEXAS COUNTY OF EL PASO

### AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT OF WAY

**THIS AGREEMENT** is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of El Paso, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

# WITNESSETH

**WHEREAS**, the State owns and operates a system of highways for public use and benefit, including Copia St. between La Luz Ave. and Tularosa Ave., in El Paso, County; and

**WHEREAS**, the local government has requested the temporary closure of Copia St. between La Luz Ave. and Tularosa Ave., for the purpose of allowing Sun Bowl Thanksgiving Day Parade & Turkey Trot, from 3:00 a.m. on Thursday, November 24, 2022 to 2:00 p.m. on Thursday, November 24, 2022 as described in the attached **"Exhibit A"**, hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the local government's incorporated area; and

**WHEREAS**, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

**WHEREAS**, on the 22<sup>nd</sup> day of November 2022, the El Paso City Council passed a Resolution, attached hereto and identified as **"Exhibit B,"** establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

**WHEREAS**, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

**WHEREAS**, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

# AGREEMENT

### Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event or unless terminated or modified as hereinafter provided.

# Article 2. EVENT DESCRIPTION

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and

stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned, physical modifications of any man-made or natural features in or adjacent to the right of way involved and a location map is attached hereto as **"Exhibit C"**, and incorporated as if fully set forth herein.

### Article 3. OPERATIONS OF THE EVENT

**A.** The local government shall assume all costs for the operations associated with the Event, including but not limited to; plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signage.

**B.** The local government shall submit to the State for review and approval: the construction plans, if construction or modifications to the State's right of way is required; the traffic control and signage plans; traffic enforcement plans, and; all other plans deemed necessary by the State. The State may require that any traffic control plan of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan, and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

**C**. The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

**D**. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

**E.** The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

**F.** The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

**G.** The local government hereby assures the State that there will be appropriate passage allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

**H.** The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

### Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

### Article 5. TERMINATION

- **A.** This agreement may be terminated by any of the following conditions:
  - (1) By mutual written agreement and consent of both parties.
  - (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
  - (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
  - (4) By satisfactory completion of all services and obligations as set forth herein.

**B.** The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

### Article 6. DISPUTES

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

### Article 7. RESPONSIBILITIES OF THE PARTIES

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

### Article 8. INSURANCE

**A.** Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period that the local government and/or its contractors are encroaching upon the State right of way.

**B.** In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

### Article 9. AMENDMENTS

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

### Article 10. COMPLIANCE WITH LAWS

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

# Article 11. LEGAL CONSTRUCTION

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

### Article 12. NOTICES

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

Local Government:	State:
City of El Paso	Texas Department of Transportation
Attn: Tomas Gonzalez	Attn: Tomas C. Trevino, P.E.
City Manager	El Paso District Engineer
300 N. Campbell- City 1, 2 <sup>nd</sup> Floor	13301 Gateway West
El Paso, Texas 79901	El Paso, Texas 79928-5410

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

### Article 13. SOLE AGREEMENT

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

**IN TESTIMONY WHEREOF**, the parties hereto have caused these presents to be executed in duplicate counterparts.

### THE CITY OF EL PASO

Executed on behalf of the local government by:

Same Rely Chief Operations Officer

Date 11-16-2022

for Tomás González City Manager

### **APPROVED AS TO FORM:**

Joyce Garcia Assistant City Attorney

# THE STATE OF TEXAS

# APPROVED AS TO CONTENT:

Philip Tiwe

Philip F. Etiwe, Director Planning and Inspections Department

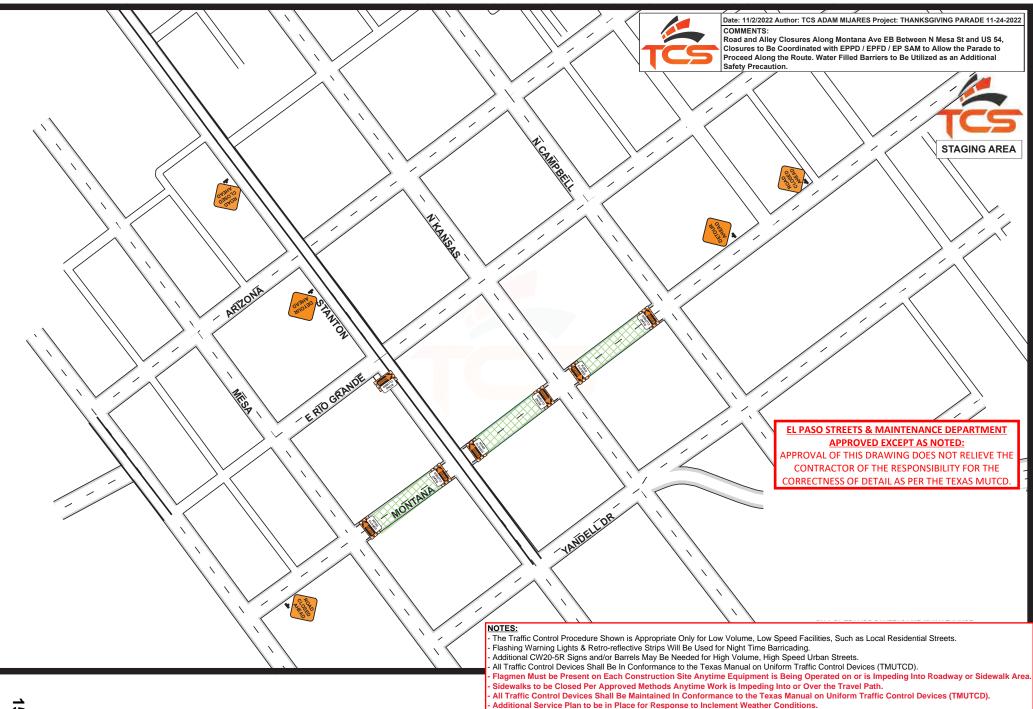
Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

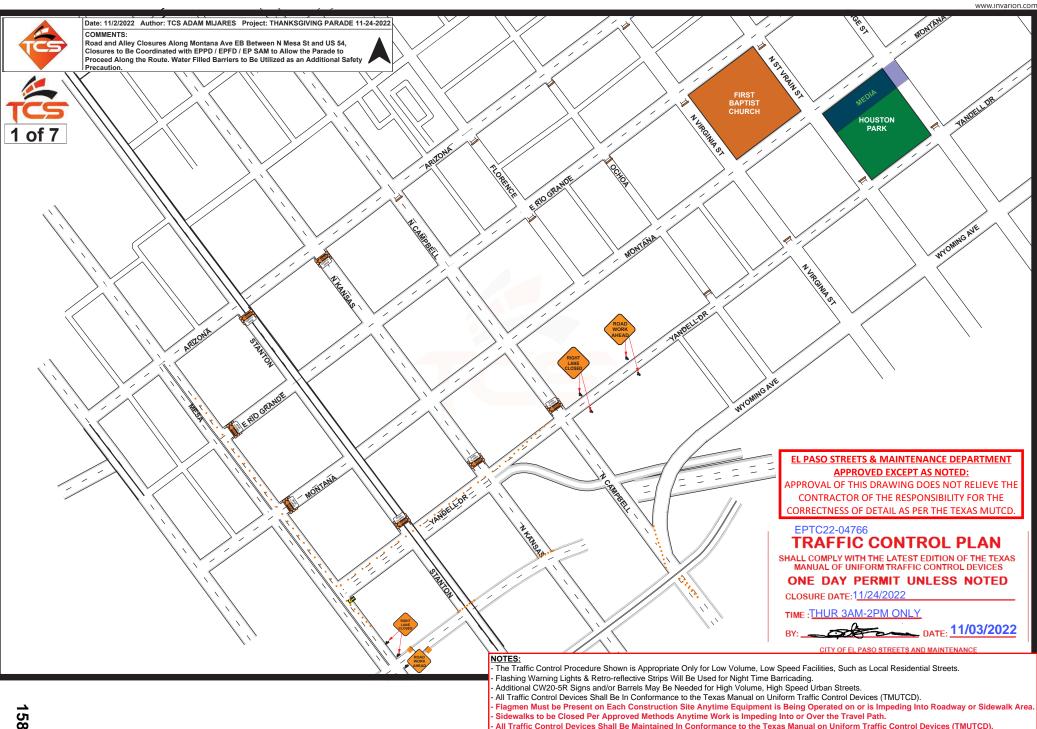
By

DocuSigned by

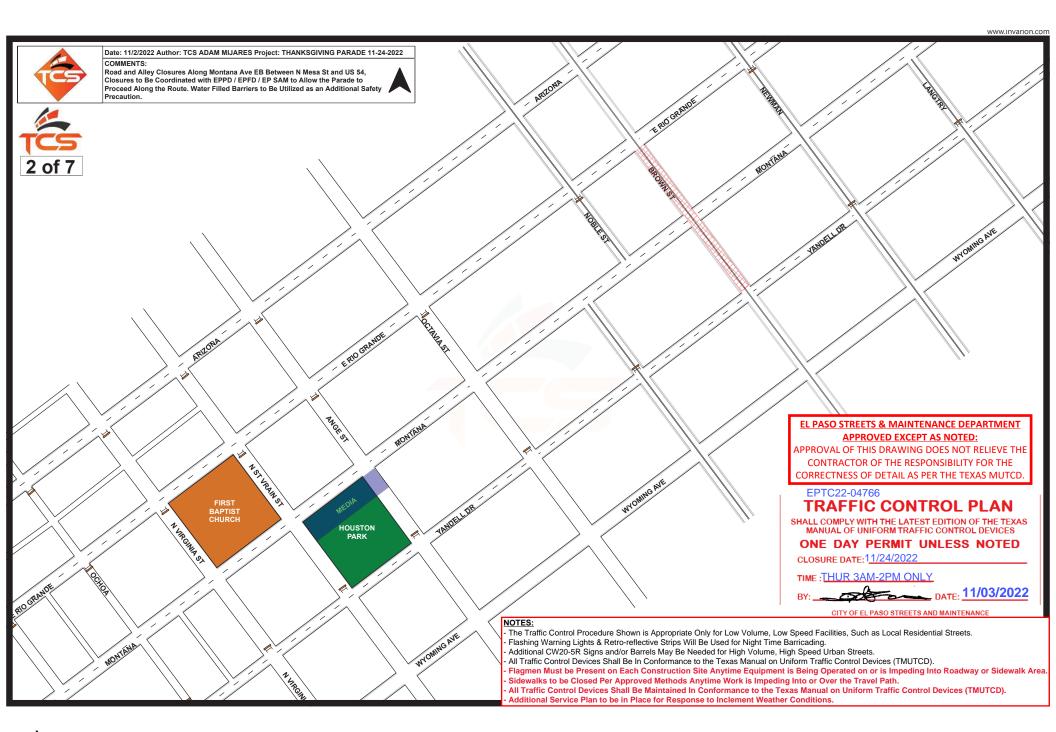
Tomas C. Trevino, P.E. El Paso District Engineer Date 11/16/2022

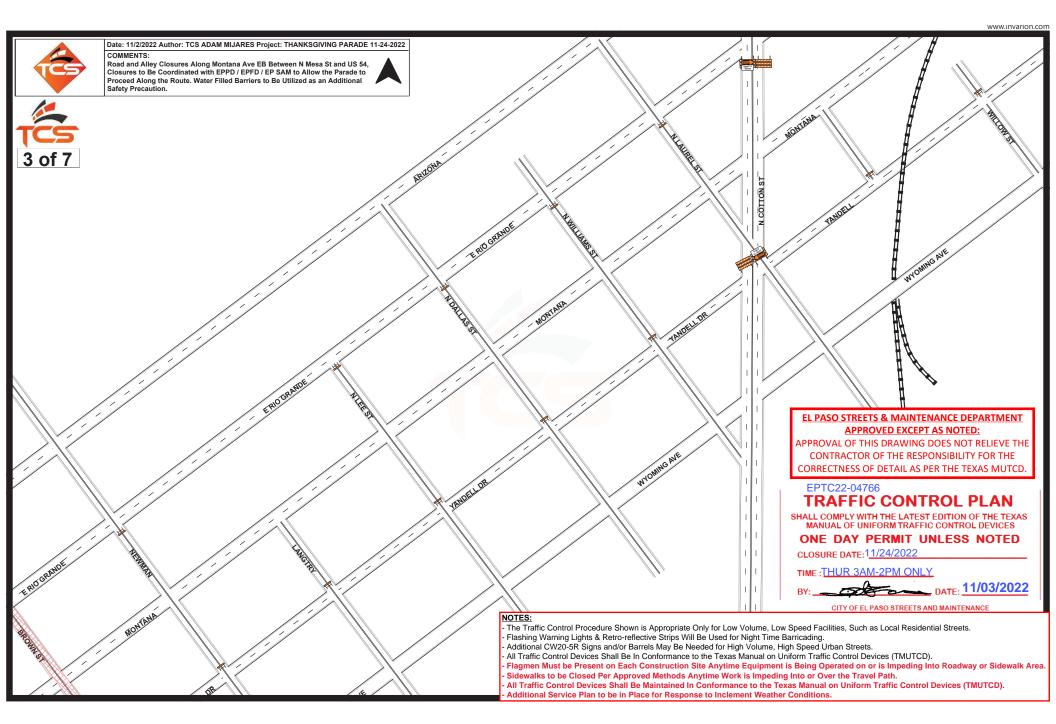
(Exhibits on the following pages)

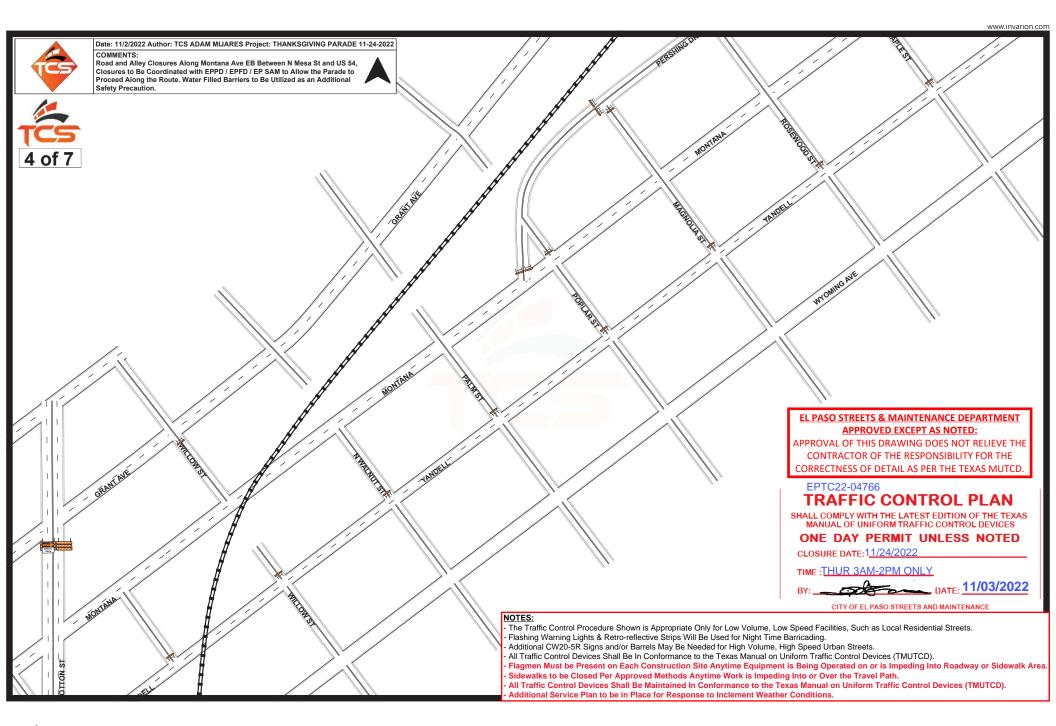


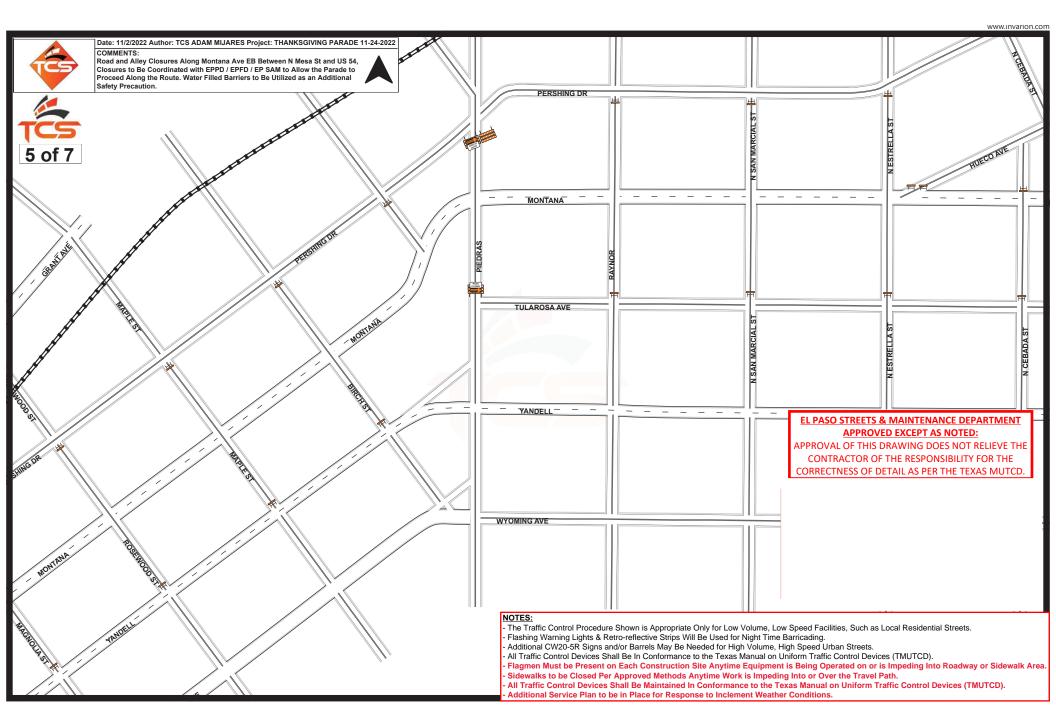


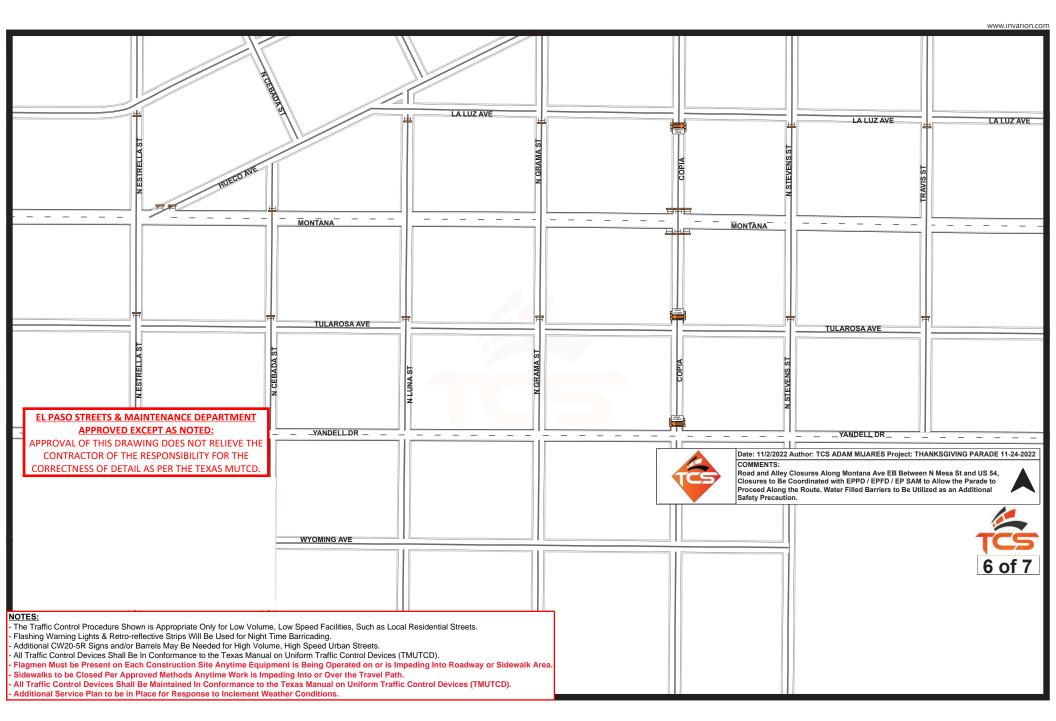
Additional Service Plan to be in Place for Response to Inclement Weather Conditions.

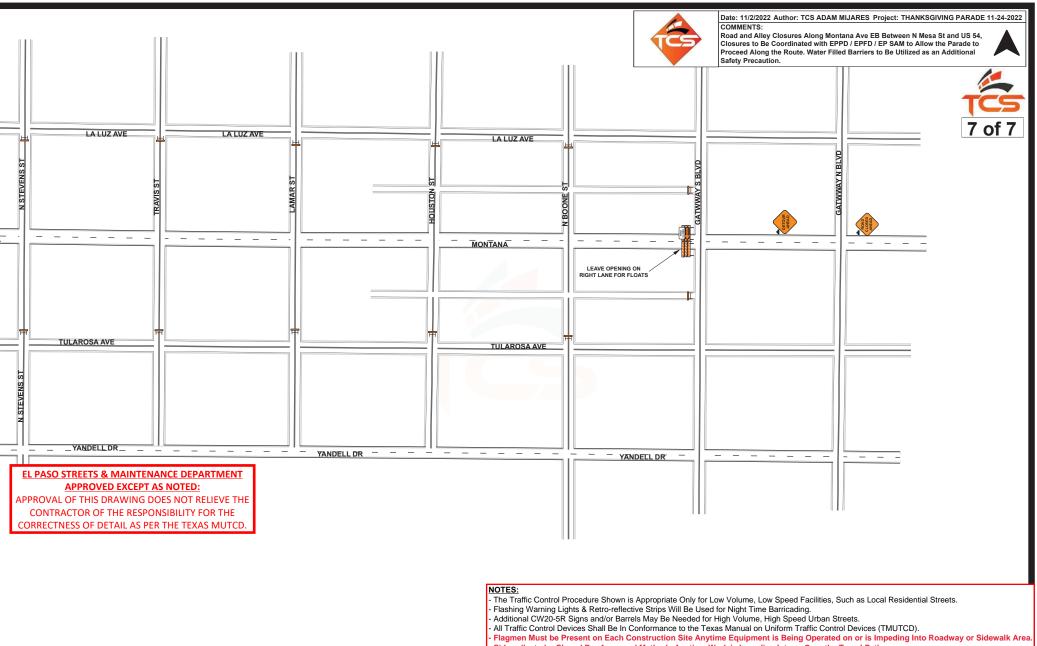












Sidewalks to be Closed Per Approved Methods Anytime Work is Impeding Into or Over the Travel Path.

All Traffic Control Devices Shall Be Maintained In Conformance to the Texas Manual on Uniform Traffic Control Devices (TMUTCD). Additional Service Plan to be in Place for Response to Inclement Weather Conditions.

# STATE OF TEXAS)))COUNTY OF EL PASO)

### CONTRACT

**THIS CONTRACT** is entered into by and between the **CITY OF EL PASO**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as "the City", and the Sun Bowl Association a Texas Nonprofit corporation, hereinafter referred to as "Contractor."

**WHEREAS,** on August 16, 2022, the City Council resolved to authorized the City Manager to execute agreements with event sponsors to support events pursuant to Section 54 of the Fiscal Year 2023 Budget Resolution; and,

**WHEREAS,** Contractor has applied and been qualified for City support under the established criteria for costs related to traffic control and public safety related to Contractor's event, the Sun Bowl Thanksgiving Day Parade & Turkey Trot, hereinafter referred to as "Event"; and,

**WHEREAS**, the City Council finds that participation by the City in the Event will provide direct benefits to the public and serve the municipal purpose of providing recreational, health and community activities and benefits for the residents and visitors to the City; and,

WHEREAS, the City agrees to provide support as set forth in this Contract.

**NOW, THEREFORE,** in consideration of the promises and mutual agreements hereinafter set forth, the parties hereto agree as follows:

**1 TERM.** This Contract shall be valid from the date signed by the last party in time to sign below, who shall affix that date onto the contract, and shall be effective for a period of 30 days from the date of the Event. The event shall take place on Thursday, November 24, 2022.

### 2 CONSIDERATION.

- **2.1** The Contractor agrees to provide the following services:
  - **2.1.1** Manage and operate the Event on Thursday, November 24, 2022, upon the route approved by the City through the Parade Permit No. CSEV22-00103, or as modified in writing by the parties.
  - **2.1.2** Comply with all terms of the Permit No. CSEV22-00103, attached hereto as **Exhibit "A"** and incorporated by reference as if set forth in full.
  - **2.1.3** Perform all street, sidewalk, and other right-of-way cleaning as required by Section 13.36.080 of the City Code and/or as required by the terms of this Contract.
  - **2.1.4** Allow any person to participate in the Event, and may not make participation in the Event contingent upon the paying of an entry fee.

- **2.2** In exchange for Contractor's services, the City agrees to provide support of the Event by covering Contractor's costs related to production of the Event in the amount up to SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$65,000.00) for public safety, park rental, fire permits, street cleaning, and solid waste removal fees imposed by the City. City shall send an invoice to the Contractor for any public safety, street cleaning and solid waste removal services performed by the City in excess of \$65,000.00 and Contractor shall pay such amount within 30 days of its receipt of the invoice.
  - **2.2.1** This assistance shall be as necessary as determined by the City in accordance with Section 13.36 of the City Code.
  - **2.2.2** If the City determines it appropriate, stand-by assistance from City Fire Department personnel and Emergency Medical Service personnel will present. Such personnel may inspect equipment involved in the Event and perform any other assignments as the City to be appropriate. However, nothing in this agreement shall create any additional legal duties or responsibilities other than those general duties to provide police, fire or emergency medical protection or assistance which may or may not already exist for the general public, and the City and its employees cannot and do not guarantee or otherwise provide any assurances as to the adequacy of or safety regarding any equipment which the City's employees may inspect.

### **3** IN-KIND ASSISTANCE AND PAYMENT OF CERTAIN FEES.

- **3.1** Contractor shall obtain the permits and pay for the Event as required the El Paso City Code as invoiced by the City.
- **3.2** Contractor shall pay the amount invoiced by the City within thirty (30) days of receipt of such invoice.
- **3.3** The City shall pay the public safety, street cleaning, park rental, fire permits and solid waste removal costs for the Event in an amount up to the dollar amount set forth herein (30) days of processing of such costs.
- **3.4** Contractor shall provide recognition of the City's support of the Event by including the City logo in the Event and/or advertisements of the Event, as possible, with the City's prior approval of such.
- 4 **LEGAL RELATIONSHIP**. Nothing in this Agreement shall be construed as creating a legal relationship of co-sponsorship or responsibility for the promotion, conducting, or operation of the Event on the part of the City. Contractor is an independent contractor, and nothing herein shall be construed as creating the relationship of employer and employee or principal and agent between the parties. The City's waiver of any or all fees for necessary police traffic-control assistance, to the extent such assistance is provided, shall not be construed as the City's co-sponsorship of the Event nor as support of or opposition to any issue.

- **4.1** City shall not be liable for any and all demands, claims, damages, causes of action, costs or losses for personal injury, property damage, or death caused by or arising out of the negligence of Contractor while Contractor is promoting, conducting, or operating the Event, or which are caused by or arise from the failure of Contractor to abide by appropriate laws, rules and regulations.
- **5 EQUIPMENT**. All equipment used by the Contractor or which is permitted to be used in the Event by the Contractor shall be maintained in satisfactory working condition. The Contractor shall not intentionally or knowingly use any equipment in any manner that may cause injury to the property of the City or third parties or any persons.
- **6 SAFETY**. Contractor shall comply with all applicable laws, ordinances, and regulations and shall encourage its participants in the Event to comply with all applicable laws, ordinances, and regulations. Contractor shall exercise every precaution for the safety of public and private property and persons.
- 7 **INSURANCE AND INDEMNIFICATION PROVISIONS.** The Contractor acknowledges that its request to use the public right of way is solely for its benefit and not a use that benefits the City taxpayers as a whole. As a result, the Contractor agrees to provide the following as a condition of its use of the public right of way:

**7.1 LIABILITY INSURANCE.** Contractor will maintain liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of One Million and No/100 Dollars (\$1,000,000.00) per person, and Two Million and No/100 Dollars (\$2,000,000.00) for each single occurrence, and, in addition, will provide property damage liability insurance in a minimum sum of One Million and No/100Dollars (\$1,000,000.00) for property damage growing out of any one accident or other cause. These amounts are not a limitation upon the Contractor's agreement to indemnify and hold harmless the City

- **7.1.1** Because the granting of this Contract is solely for the benefit of the Contractor and recognizing that the City taxpayers should not incur any costs associated with the Contractor's enjoyment of this Contract, except as provided herein, the Contractor is required to purchase liability insurance on behalf of the City or, alternatively, may name the City as an additional insured on the policy of general liability insurance referenced above. Such insurance shall provide coverage for any alleged acts or omissions of the City, its agents, employees, or independent contractors, alleged or asserted by any individual, in connection with the performance of this agreement.
- **7.1.2** The Contractor shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and the Contractor, its officers, agents, servants, or employees.

**7.1.3** This Contract shall not be executed by the City until the Contractor files a copy of the policy or certificate of liability insurance as herein set forth with the Department of Transportation. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the City, or without ten (10) calendar days prior written notice as to non-payment of insurance policy premiums. Failure to keep the policy in full force and effect throughout the term of the contract shall be grounds for cancellation of the Parade Permit and City Sponsorship. Certificates of Insurance that state the insurer shall endeavor to give notice and/or that there shall be no liability for the failure to give the notice required herein shall not meet the requirements of this section.

7.2 INDEMNITY AS A CONDITION OF THIS AGREEMENT, CONTRACTOR OR ITS INSURER SHALL INDEMNIFY, DEFEND AND HOLD THE CITY, ITS **OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FROM AND AGAINST** ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE,) INCLUDING BUT NOT LIMITED TO ALL JUDGMENTS, SETTLEMENT AMOUNTS, ATTORNEYS' FEES, COURT COSTS AND EXPENSES INCURRED IN THE INVESTIGATION, HANDLING, DEFENSE AND LITIGATION OF ANY CLAIM OR SUIT, INCLUDING BUT NOT LIMITED TO ANY CLAIM OR SUIT FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON **REGARDLESS OF THE MERITS OF OR OUTCOME OF SUCH CLAIM OR SUIT** ARISING OUT OF OR RELATED ТО THIS AGREEMENT. THIS INDEMNIFICATION PARAGRAPH SHALL APPLY EVEN WHERE SUCH **BODILY OR PERSONAL INJURY, ILLNESS, LOSS OF SERVICES, PHYSICAL** OR MENTAL IMPAIRMENT TO OR DEATH OF ANY PERSON, OR FOR DAMAGE OR DESTRUCTION TO ANY PROPERTY RESULTS FROM OR INVOLVES NEGLIGENCE OR ALLEGATIONS OF NEGLIGENCE ON THE PART OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES. WITHOUT MODIFYING THE CONDITIONS PRECEDENT FOR PRESERVING DEFENSES, ASSERTING CLAIMS OR ENFORCING ANY LEGAL LIABILITY, AGAINST THE CITY AS REQUIRED BY THE CITY CHARTER OR ANY LAW, THE CITY SHALL PROMPTLY FORWARD TO CONTRACTOR EVERY DEMAND, NOTICE. SUMMONS OR OTHER PROCESS RECEIVED BY THE CITY IN ANY CLAIM OR LEGAL PROCEEDING CONTEMPLATED HEREIN. CONTRACTOR SHALL 1) INVESTIGATE OR CAUSE THE INVESTIGATION OF ACCIDENTS OR OCCURRENCES INVOLVING SUCH INJURIES OR DAMAGES; 2) NEGOTIATE OR CAUSE TO BE NEGOTIATED THE CLAIM AS **CONTRACTOR MAY DEEM EXPEDIENT; AND 3) DEFEND OR CAUSE TO BE** DEFENDED ON BEHALF OF THE CITY ALL SUITS FOR DAMAGES EVEN IF **GROUNDLESS, FALSE OR FRAUDULENT, BROUGHT BECAUSE OF SUCH INJURIES OR DAMAGES. CONTRACTOR SHALL PAY ALL JUDGMENTS IN** ACTIONS DEFENDED BY CONTRACTOR PURSUANT TO THIS SECTION ALONG WITH ALL ATTORNEYS' FEES AND COSTS INCURRED BY THE CITY INCLUDING INTEREST ACCRUING TO THE DATE OF PAYMENT BY

CONTRACTOR, AND PREMIUMS ON ANY APPEAL BONDS. THE CITY, AT ITS ELECTION SHALL HAVE THE RIGHT TO PARTICIPATE IN ANY SUCH NEGOTIATIONS OR LEGAL PROCEEDINGS TO THE EXTENT OF ITS INTEREST. THE CITY SHALL NOT BE RESPONSIBLE FOR ANY LOSS OF OR DAMAGE TO CONTRACTOR'S PROPERTY FROM ANY CAUSE.

- 8 **DISCRIMINATION**. Contractor, its officers, agents, servants, employees, volunteers, and third parties will not discriminate on account of race, color, religion, sex, or national origin, permit or allow any discrimination in the work done pursuant to this Contract in violation of the law.
- **9** ACCESSIBILITY STANDARDS FOR DISABLED PERSONS. The Contractor agrees that in the performance of this Contract, it will comply with the Americans with Disabilities Act ("ADA"). The Contractor must file any Assurance required under City Ordinance 9779, prohibiting discrimination against disabled persons.
- 10 COMPLIANCE WITH LAWS. Contractor shall comply with all applicable federal, state and local laws and regulations. Failure to do so in any manner that materially impairs the quality of performance hereunder, or affects the administration of the funds provided hereunder shall constitute a material breach of this Contract.

### 11 TERMINATION.

- **11.1** Termination by Mutual Consent. The parties may terminate this Contract by mutual consent upon such terms as they may agree in writing.
- **11.2** Termination by Any Party. It is further understood and agreed by the parties that any party to this Contract may terminate this Contract, in whole or in part, upon written notice if any of the other parties fails to perform any of its material obligations hereunder and fails to completely cure the breach.
- **11.3** Time of Performance Termination Force Majeure. No party to this Contractwill be liable for failure to comply with any term of this Contract when such failure is caused by an event of war, fire, earthquake, flood, strike, any law, rule, regulation or act of governmental authority, or any other act, event, cause or occurrence rendering a party to this Contract unable to perform its obligations, which is not within its reasonable control. The party affected by such event will immediately notify the other parties in writing.
- **11.4** Termination Shall Not Be Construed as Release. Termination by any party shall not be construed as a release of any claims that may be lawfully asserted against the terminating party(s). Further, the terminated party(s) shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Contract.
- **11.5** Upon termination of this Contract, except as otherwise provided herein, all duties and obligations of the parties to this Contract shall cease.

- 12 AMENDMENTS AND WAIVER. The parties may amend this Contract at any time by mutual consent. Unless otherwise provided herein, this Contract may be amended only by written instrument duly executed on behalf of the City and the Contractor. No claim or right arising out of a breach of this Contractor can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
- 13 COMPLETE AGREEMENT. This Contract constitutes the entire agreement between the parties relating to the terms and conditions of the Contract. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this Contract confers no rights on any person(s) or business entity(s) that is not a party hereto. This Contract shall not be construed against or unfavorably to any party because of such party's involvement in the preparation or drafting of this Contract.
- 14 **GOVERNING LAW.** This Contract shall be construed and interpreted in accordance with the laws of the State of Texas, along with any applicable provisions of the federal law, the City Charter(s) and/or any ordinance of the City.
- **15 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.
- 16 NOTICES. All notices and communications under this Contract shall be either handdelivered or mailed, certified, postage prepaid in the United States Postal Services, return receipt requested, to the respective parties at the respective addresses shown below, unless and until either party is otherwise notified in writing:

CITY:	City Manager City of El Paso PO BOX 1890 El Paso, Texas 79950-1890
WITH COPY TO:	Planning & Inspections Department City of El Paso PO BOX 1890 El Paso, TX 79950-1890
CONTRACTOR:	The Sun Bowl Association Attention: Bernie Olivas 4150 Pinnacle, Suite 100 El Paso, Texas 79902

**17 ASSIGNABILITY**. This Contract, its rights, duties and responsibilities may not be assigned by any of the parties without the prior written consent of the City Council.

18 WARRANTY OF CAPACITY TO EXECUTE CONTRACT. The people signing this Contract on behalf of the parties warrants that he/she has the authority to do so and to bind the party for which he/she has authority to sign this Contract and all the terms and conditions contained herein.

Each person signing below represents that he or she has read this Contract in its entirety; understands its terms; and agrees on behalf of such party that such party will be bound by those terms.

**19 EFFECTIVE DATE**. This Contract is effective as of \_\_\_\_\_ November 16, 2022.

WITNESS THE FOLLOWING SIGNATURES AND SEALS

# THE CITY OF EL PASO

**Chief Operations Officer** 

for Tomás González City Manager

**APPROVED AS TO FORM:** 

Joyce Garcia Assistant City Attorney

### **APPROVED AS TO CONTENT:**

Philip F. Etiwe, Director Planning & Inspections Department

### ACCEPTANCE

The attached instrument, with all conditions thereof, is hereby accepted this \_\_\_\_\_ day of Nov 14, 2022 , 2022.

### **CONTRACTOR:**

BErnie Olivas

Name Printed: Bernie Olivas Title: Executive Director

(Exhibit "A" on the following pages)

22-1007-2999 | 1213993 Sun Bowl Thanksgiving Day Parade & Turkey Trot JG CSEV22-00103

ocuSign Envelope ID: B2A7548	9-6331-4234-9B94-AC737C65B3BD HBIT "A"	
CITY OF CALL	City of El Paso	all.
	Special Event Permit	UTASI
LEXAS	Parade	
Permit No:	CSEV22-00103	
Event Name:	SUN BOWL THANKSGIVING DAY PARADE & TURKEY TR	от
Issued:	11/4/2022	
Expires:	11/24/2022	

BERNIE OLIVAS 4150 PINNAVLE SUITE 100 EL PASO, TX 79902

Applicant

**Description:** Parade Route: Starts at Campbell and Montana ends at Montana and Copia. Pre-Staging: Montana Avenue between North Campbell Street and North Kansas Street, North Kansas Street and North Stanton Street, North Stanton Street and North Mesa Street, and left lane and half street closure on North Stanton Street between Wyoming Avenue and East Rio Grande Avenue.

The El Paso Police Department has no objections with this event. The Department will police the event with 192 officers and 73 vehicles. Traffic control times will be from 04:00 to 15:00 on 11/24/2022.

EPFD: Float inspection form distributed to float builders, several off-site builds. Will communicate with Mr. Daubach regarding offsite float locations and inspection of floats at warehouse for 11/23/22 at 10am pending confirmation of date and time.

		Amplification: Yes
Event Type: Parade	Park Use: No	ľ
Participants/Attendees: 4,000	Event Staff/Volunteers: 700	Other:
Vehicles: 100	Animals: No	
EVENT		STREET MONITORING
Start Date: 11/24/2022		Start Date: 11/24/2022
Start Time: 10:00		Start Time: 03:00
End Date: 11/24/2022		End Date: 11/24/2022
End Time: 14:00		End Time: 14:00

\*\* NOTICE \*\*

Permittee shall comply with all applicable City, State and Federal rules and/or regulations in conjunction with the event, including, but not limited to, park, noise and alcohol. Permitte acknowledges all information presented and contained herein is factually accurate. Permittee understands any inaccurate or incomplete information provided may create additional costs and/or considerations in conjunction with the permit and/or the event.

THE CONTACT PERSON FOR THE EVENT SHALL CARRY THE PERMIT DURING THE EVENT.

Given under my hand and The City of El Paso Seal on this date:

arisal Franco



Applicants Signature

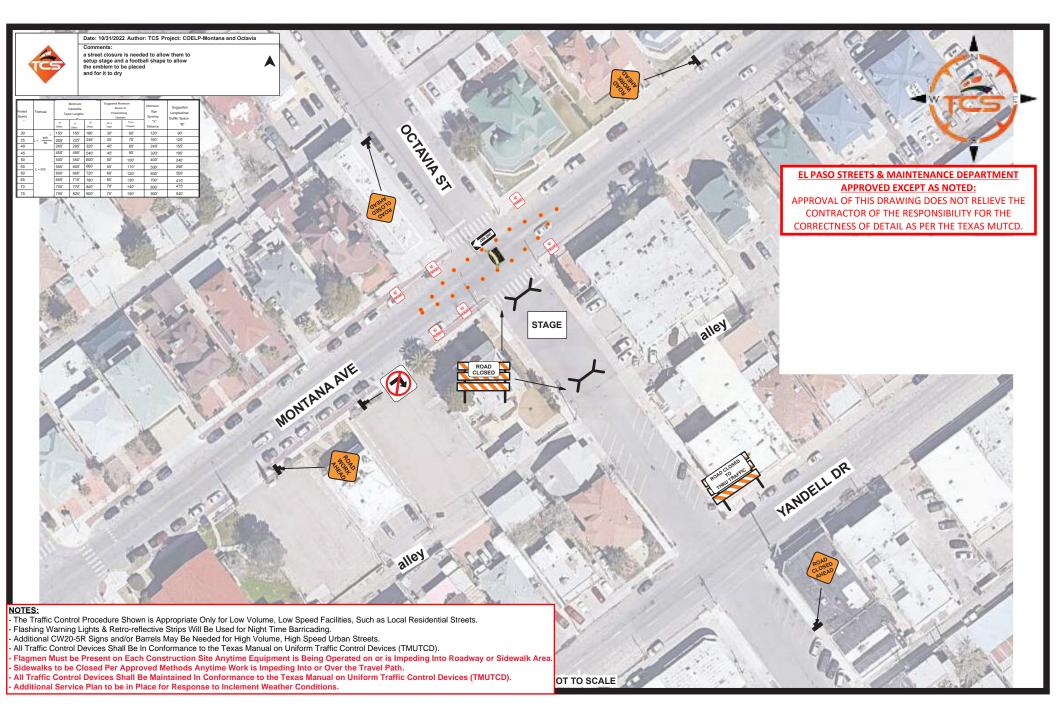
#### Parades and Public Assemblies

### All parade and public assembly requests shall comply with the following as conditions of the permit:

- 1. The permittee(s) shall comply with all provisions of Section 13.36 (Parades and Public Assemblies), permit directions, conditions and all applicable laws and ordinances.
- 2. The permittee(s) shall not allow the parade to begin, proceed or continue until such time as the applicable traffic control plan or method is set up and functioning.
- 3. The permittee(s) shall not make an exclusive use of any City-Controller park or park facility for a demonstration except in compliance with Section 13.24.200 of the City code.
- 4. The permittee(s) shall take all steps necessary to keep the area for the public assembly clean or the parade route clean and free of animal excrement during the event.
- 5. The permittee(s) shall, immediately upon the conclusion of the event, clean and remove all litter and debris left on the roadways, sidewalks, and other public right-of-ways by participants, animals, floats and vehicles used in the event and by spectators to the event.
- 6. The permittee(s) shall coordinate any requests for fireworks with the El Paso Fire Department prior to the issuance of the parade permit.
- 7. Use of animals, including but not limited to horses, dogs and cats shall be coordinated with the Animal Services Department. Permittee(s) are responsible for ensuring adequate cleaning is conducted in conjunction with the use of animal participants.
- 8. The permittee may, no later than fourteen business days prior to the day of the event, request the assistance of the City with such cleaning and if provided, the permittee shall be responsible for his costs of the City cleaning. Such request shall be made on a form provided by the City and filed with the permit official. In the event that the permittee does not request and receive the assistance of the City with such cleaning and the permittee fails to clean and remove all such litter and debris within four hours of the end of the event, the City may perform such cleaning and the permittee shall be responsible for payment of the city cleaning costs within 10 days of receipt of the bill from the Office of the Comptroller.
- 9. Payment of all costs of providing On-Duty Law Enforcement officers and any other traffic control costs, less the amount of deposit made under Section 13.36.050 C of this code when applicable, shall be due and payable within ten days of receipt of the bill from the Office of the Comptroller.
- 10. Parade and Public Assembly participants shall comply with section 13.36.090 of the City Code: 13.36.090 Duties of participants.
  - a. Upon the request of a peace officer, each participant who is operating a motor vehicle on a roadway pursuant to the laws of the State of Texas shall exhibit proof of financial responsibility as required under Chapter 601 of the Texas Transportation Code. A peace officer shall have the authority to prohibit the participation in a parade of any motor vehicle for which its operator cannot provide the required proof of financial responsibility.
  - b. During the course of the parade, each participant shall obey the directions of any peace officer who is directing or otherwise providing traffic control for that parade. A peace officer shall have the authority to prohibit the continued participation in a parade of any person who fails on more than one occasion to obey the directions of a peace officer.
  - c. Each participant shall remain responsible for the payment of any bridge-crossing tolls, should the parade route pass through a toll area.
  - All participants who enter or pass through an area under the control, direction or supervision of the United
     States Bureau of Customs and Border Protection shall comply with all laws, regulations and other requirements pertaining to the entry into and exit from such area.

### Park Information and Rules

- 1. Electricity is not provided, unless event is held in a Reserve.
- 2. Water is not provided.
- 3. Portable restrooms are not provided; permanent restrooms are available at Reserves.
- 4. No excavation or placing of stakes into the ground.
- 5. Park Closed 11:00 p.m. 6:00 a.m. (Downtown Parks Closed from 1:00 a.m. 6:00 a.m.)
- 6. No vehicles will be driven or allowed onto park grass areas.
- 7. No restriction for the use of the areas or streets by the public shall be imposed.
- 8. Littering and dumping of waste prohibited.
- 9. Glass beverages containers prohibited
- 10. Alcoholic beverages are prohibited.
- 11. Illegal to mar, damage, or destroy city property.
- 12. Camping is prohibited.
- 13. Use of any projectile is prohibited (firearms, air rifles, sling shots, driving golf balls, rock throwing).
- 14. Remove pet droppings, use a leash.
- 15. No horses.
- 16. No amusement devises or jumping balloons without written permission.
- 17. Permit required for sale of goods or services.
- 18. Permit required for amplified public addressing.





Legislation Text

### File #: 22-1495, Version: 2

# CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts Office of the Comptroller, Margarita Munoz, (915) 212-1174

### AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Approve a Resolution to update the Debt Management Policy for the City of El Paso.

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

### **DEPARTMENT: Office of the Comptroller**

AGENDA DATE: November 22, 22

PUBLIC HEARING DATE: N/A

### CONTACT PERSON NAME AND PHONE NUMBER: Margarita Munoz – Comptroller – 915-212-1174

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Goal 6: Set the Standard for sound governance and fiscal management

**SUBGOAL:** 6.6 Ensure continued financial stability and accountability through sound financial management, budgeting and reporting

### <u>SUBJECT:</u> APPROVE a resolution to update the Debt Management Policy for the City of El Paso.

### **BACKGROUND / DISCUSSION:**

The Debt Management Policy applies to all debt instruments regardless of the funding source; it establishes guidelines to develop and maintain a sound debt management program. The objective of the policy is to establish and maintain a solid position with respect to the debt service fund.

The policy has been revised to provide clarification to some of the concepts related to debt management as well as aligning the policy with GFOA best practices.

PRIOR COUNCIL ACTION: The City Debt Management Policy was last amended on September 1, 2020.

# AMOUNT AND SOURCE OF FUNDING: N/A

**DEPARTMENT HEAD:** 

efsell-

### **RESOLUTION**

**WHEREAS,** on November 25, 2005, the City of El Paso (the "*City*") adopted a Debt Management Policy that set forth the parameters for issuing new debt as well as managing the outstanding debt portfolio, identifies the types and amounts of permissible debt and ensures that the City maintains a solid bond rating in order to minimize borrowing costs and preserving access to credit; and

WHEREAS, the City has reviewed its debt management policy at least bi-annually in accordance with the provisions of the Policy requiring Council review; and

**WHEREAS,** the City last reviewed and amended the City's Debt Management Policy on September 1, 2020; and

WHEREAS, the City now desires to further amend and restate the City's Debt Management Policy for Fiscal Years 2023-2024.

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

That the City hereby approves the amended and restated City of El Paso Debt Management Policy for FY2023-2024 which is attached hereto as *Exhibit* A and incorporated herein by reference.

**APPROVED** this \_\_\_\_\_\_ day of \_\_\_\_\_\_ , 2022.

### **CITY OF EL PASO:**

**ATTEST:** 

Oscar Leeser Mayor

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Juan S. Gonzalez Senior Assistant City Attorney

### **APPROVED AS TO CONTENT:**

Robert Cortinas

Robert Cortinas Chief Financial Officer

# EXHIBIT A

# THE CITY OF EL PASO DEBT MANAGEMENT POLICY FY2023-2024



City of El Paso

Debt Management Policy November 2022

Prepared by: Office of the Comptroller Fiscal Operations Division

Previous Revision September 2020



The mission of the Office of the Comptroller is to provide fiscal management and financial reporting, administer treasury services and provide grant accounting information to City Management and elected officials so that they can make informed decisions regarding the provisions of City services.

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# The City of El Paso Debt Management Policy

#### 1.0 POLICY

It is the policy of the City of El Paso ("City") to develop and maintain a sound debt management program. This policy sets forth the parameters for issuing new debt as well as managing the outstanding debt portfolio, identifying the types and amounts of permissible debt, maintaining the current bond rating in order to minimize borrowing costs and preserving access to credit. It is the intent of the City to establish this policy to provide guidance to staff to:

- Ensure high quality debt management decisions;
- Ensure that debt management decisions are viewed positively by rating agencies, the investment community and the citizenry-at-large;
- Ensure support for debt issuances both internally and externally;
- Demonstrate a commitment to long-term financial planning.

#### 2.0 SCOPE

The City of El Paso Debt Management Policy (this "Policy") applies to all debt instruments issued by the City regardless of the funding source. Funding sources can be derived from ad valorem taxes, general City revenues, enterprise fund revenues or any other identifiable source of revenue that may be identified for appropriate pledging for bonded indebtedness.

#### 3.0 OBJECTIVES

The primary objective of this Policy is to ensure that the City establishes and maintains a solid position with respect to its debt service fund. It is intended to demonstrate that proceeds from long- term debt will not be used for current operations but rather for capital improvements and other long-term assets.

The City prepares Capital Improvement Plan (CIP) budgets which are presented to City Council for approval. Since the aggregate cost of desired capital projects generally exceeds available funds, the capital planning process prioritizes projects and identifies the funding needs. Debt is issued for CIP in accordance with this policy. Other objectives include: bonds will be paid back within a period not to exceed, and preferably sooner than, the expected useful life of the capital project; decisions will be made based on a number of factors and will be evaluated against long-term goals rather than a short-term fix; and the debt service funds will be managed and invested in accordance with all federal, state and local laws.

#### 4.0 STRUCTURE OF DEBT

Debt service will be structured, to the greatest extent possible, to match projected cash flows, minimize the impact of future property tax levies, and maintain a relatively rapid payment of principal. The term of the debt issuance should equal the lesser of the useful life of the asset being financed or the maximum maturity permitted by State law for the obligations issued to finance the acquisition and/or construction of the asset.

4.1 Fixed Interest versus Variable Interest

The City primarily issues fixed rate bonds to protect the City against interest rate risk. The City has the option to issue variable rate bonds and may, if market conditions warrant, consider such a structure. Commercial paper notes, due to their short-term maturities (365 days or less), are treated as variable rate obligations.

**4.2** Other Considerations

Bonds are generally issued with an average life of 26 years or less for general obligation bonds, certificates of obligation and revenue bonds but may be greater for some projects such as landfills and major utility facilities whose lives are greater than 20 years. Typically, interest is paid in the first fiscal year after a bond sale, and generally principal is paid no later than two years after the debt is issued. Call provisions for bond issues shall be made as short as possible consistent with the lowest interest cost to the City. The targeted maximum length to call is 10 years. However, the City may opt for a call date longer than 10 years in order to achieve the necessary goals of the particular issue.

#### 5.0 FINANCING ALTERNATIVES

It is the City's intent to develop a level of cash and debt funded capital improvement projects that provide the citizens with the desired amount of City services at the lowest cost. The City may use both, general obligation bonds or certificates of obligations, as deemed appropriate by City staff and approved by Council. Generally, proceeds from bonded indebtedness are to be used only for capital expenditures related to the acquisition, construction, improvement or renovation of a City facility or public access roads as well as any permanent public improvement or asset purchase or such other purposes permitted by the City Charter and applicable law.

- 5.1 General obligations bonds will be used if the following criteria are met:
  - The size of the issuances is based on the capital funding needs of the City at a particular time and the recommendation of the Chief Financial Officer (CFO) in conjunction with the City's bond counsel and financial advisor
  - Funds will be used for new and expanded facilities, major repair/ renovations to existing facilities, quality-of-life projects, public safety projects and debt refunding
  - Useful lives of assets acquired will be fifteen (15) years or more; or will extend the useful life of an asset for more than fifteen (15) years
  - Voter authorized debt except for bond refundings as per section 7.4
  - **5.1.1** The total dollar amount of bond election propositions recommended to the voters shall not exceed the City's estimated ability to issue said bonds within a normal 10-year period.
  - **5.1.2** The use of reimbursement resolutions may be used as a cash management tool for general obligation debt funded projects.
  - **5.1.3** The City may choose to issue general obligation debt which will be issued for the following projects/acquisitions:
    - Quality-of-Life (QOL) projects
    - Construction of new facilities, park projects, zoo projects, and other projects as approved by the voters
    - Capital asset acquisitions (heavy equipment, vehicles, IT equipment, etc.)

- Rehabilitation and/or extension of the useful life of existing facilities, including existing QOL facilities, by more than 15 years
- Street infrastructure projects
- Street resurfacing, street lights, ADA modifications, traffic calming devices, storm water/drainage work, and small equipment related to QOL projects
- Public safety projects
- Any other purpose permitted by City Charter and applicable laws

#### 5.2 Quality of Life – General Obligation Bonds

QOL projects are defined as capital improvement and/or facility projects including, but not limited to, the City's parks, museums, zoo, libraries, capital asset acquisitions, non-public safety facilities, and entertainment, sports and amusement-type facilities which will improve the quality of life for City residents.

The criteria for use of the QOL bond proceeds will be effective from the date of the bond issue until the projects are complete or the QOL bond proceeds are exhausted.

Capital assets financed with QOL general obligation debt shall have a value of at least \$5,000 and a useful life of at least three years. This is an exception to the general obligation bonds as per section 5.1 in order to fully equip and furnish QOL facilities to be ready for the public use. The project value will sometimes include individual items or a group of items within the same asset category that are combined to form one unit (group asset), which is needed to bring a project to completion and available for public use.

Additional approved uses may include street resurfacing, street lights, ADA modifications, traffic calming devices, storm water/drainage, library books and materials, works of art, and small equipment related to the QOL projects.

#### 5.3 Certificates of Obligation – For Issuances less than \$100 million

It is the City's priority to fund the majority of capital projects with voter-approved debt. However, on occasion, it becomes necessary to seek additional financing in order to make necessary infrastructure improvements, renovate existing facilities, and extend the useful life of an asset. Certificates of Obligation (CO) will be issued for the following projects/acquisitions:

- Capital asset acquisitions (heavy equipment, vehicles, IT equipment, etc.)
- Rehabilitation and/or extension of the useful life of existing facilities, including existing QOL facilities, by more than three years
- Street resurfacing
- Unpaved right-of-ways
- ADA retrofitting/rehabilitation projects
- Street lighting
- Infrastructure projects (street and draining work)
- Emergency city facilities rehabilitation
- Major core service facilities (police, fire, streets, etc.)
- Complete or enhance QOL projects previously approved by voters and subsequently approved additional funding by City Council

Notwithstanding the policy set forth herein and in section 5.1, CO's or other long-term debt may be considered if one or more of the following criteria are met:

- There is need to complete or enhance QOL projects previously approved by voters
- The need for the project is urgent and immediate
- The project(s) is necessary to prevent an economic loss to the City
- Source of revenue is specific and can be expected to cover the additional debt
- The expected debt is the most cost effective financing option available

In addition, the average maturity of non-voter approved debt shall not exceed the average life of the project financed. Capital items financed with long-term CO debt shall have a value of at least \$5,000 and a life of at least 3 years.

Reimbursement resolutions may be used for projects funded through CO's.

**5.4** Certificates of Obligations – Enterprise Fund

CO's for an enterprise system will be limited to only those projects, which can demonstrate the capability to support the long-term debt either through its own revenues or another pledged source other than ad valorem taxes and meet the same criteria as outlined in 5.3 above.

#### 5.5 Revenue Bonds

Revenue bonds will be issued for projects that generate revenues that are sufficient to repay the debt. Except where otherwise required by State Statutes, revenue bonds may be issued without voter approval and only in accordance with the laws of Texas.

#### 5.6 Conduit Debt

The City may sponsor conduit financings for those activities that serve a public purpose, are in the best interest of the City, and adhere to Texas law. All conduit financings must insulate the City to the greatest extent possible from any credit risk or exposure and must be approved by the City Council.

#### 5.7 Special Assessment Bonds

Special assessment bonds are a special type of municipal bond used to fund development projects that benefit a discrete group of tax payers within a special assessment district. Principal and interest owed on the bonds is paid from assessments on the property benefiting from the particular bond-funded project. The creation of an improvement district must be approved by the City Council and be created and managed pursuant to all applicable laws. The City traditionally has made limited use of special assessment debt.

#### 5.8 Commercial Paper

Commercial paper can be used as a source of short-term financing for projects that have received voter authorization if City staff has determined that such financing is prudent. It is the policy of the City that the net amount (total commercial paper less the investment portfolio) of commercial paper outstanding not exceed 25% of the amount of fixed rate debt outstanding. Commercial paper will be converted to refunding bonds when dictated by economic and business conditions.

#### **5.9** Other Debt Obligations

The use of other debt obligations, permitted by law, including but not limited to public property finance act contractual obligations, pension obligation bonds, tax notes, and lease purchase obligations, will be reviewed on a case-by-case basis. The criteria in 5.3 above will be considered for the use of these obligations.

#### 6.0 METHODS OF SALE

The City may use competitive sales, negotiated sales, or private placements. When considering the method of sale, the City will take the following conditions into consideration:

- Financial conditions;
- Market conditions;
- Transaction-specific conditions;
- City-related conditions; and
- Risks associated with each method.
- **6.1** Additionally, the City considers the following criteria when determining the appropriate method of sale for any debt issuance:
  - **61.1** Complexity of the Issue Municipal securities with complex security features require greater marketing and buyer education efforts on the part of the underwriter, to improve the investors' willingness to purchase.
  - **6.1.2** Volatility of Bond Yields If municipal markets are subject to abrupt changes in interest rates, there may be a need to have some flexibility in the timing of the sale to take advantage of positive market changes or to delay a sale in the face of negative market changes.
  - **6.1.3** Familiarity of Underwriters with the City's Credit Quality If underwriters are familiar with the City's credit quality, a lower True Interest Cost ("TIC") may be achieved. Awareness of the credit quality of the City has a direct impact on the TIC an underwriter will bid on an issue. Therefore, where additional information in the form of presale marketing benefits the interest rate, a negotiated sale may be recommended. The City strives to maintain an excellent bond rating. As a result, the Municipal Bond Market is generally familiar with the City's credit quality.
  - **6.1.4** Size of the Issue The City may choose to offer sizable issues as negotiated so that pre-marketing and buyer education efforts may be done to more effectively promote the bond sale.
- 6.2 Definitions of the Methods of Sale

A **competitive sale** is when bonds are awarded in a sealed bid sale to an underwriter or syndicate of underwriters that provides the lowest TIC bid. TIC is defined as the rate, which will discount the aggregate amount of debt service payable over the life of the bond issue to its present value on the date of delivery. In today's market, bids primarily are submitted electronically through a secure website. A **negotiated sale** is when the City chooses an underwriter or underwriting syndicate, generally from the pool selected through its Request for Qualification ("RFQ") process that is interested in reoffering a particular series of bonds to investors. The terms of the sale including the size of the underwriter's discount, date of sale, and other factors are negotiated between the two parties. Although the method of sale is termed negotiated, individual components of the sale may be competitively bid. The components are subject to a market analysis and reviewed prior to recommendation by staff. Negotiated sales are more advantageous when there needs to be some flexibility in the sale date or when less conventional bond structures are being sold. Negotiated sales are also often used when the issue is particularly large or if the sale of the debt issuance would be perceived to be more successful with pre-marketing efforts.

A **private placement** is a sale of debt securities to a limited number of sophisticated investors. The City may engage a placement agent to identify likely investors. A private placement is beneficial when the issue size is small or when the security of the bonds is weak since the private placement permits issuers to sell riskier securities at a higher yield to investors that are familiar with the credit risk.

#### 7.0 REFUNDING OF DEBT

- 7.1 Refunding bonds are issued to retire all or a portion of an outstanding debt issue. Most typically this is done to refinance at a lower interest rate to achieve debt service cost savings. From time to time, the City may also issue refunding debt for purposes of restructuring debt, changing covenants, and/or changing the repayment source of the bonds. Such purpose should be specifically recognized by City Council.
- **7.2** Advance refunding and forward delivery refunding transactions for savings should be considered when the net present value savings as a percentage of the par amount of refunded bonds is at least 3% (three percent).
- **7.3** Current refunding transactions issued for savings should be considered when the net present value savings as a percentage of the par amount of refunded bonds is at least 2% (two percent).
- **7.4** General obligation bonds will be issued for refunding debt upon City Council approval. This issuance does not require voter approval.
- **7.5** When an escrow account will be used, the City may seek to purchase State and Local Government Securities (SLGS) to fund its refunding escrow. However, at the discretion of the CFO, the City may choose to fund an escrow through the purchase of treasury or agency securities on the open market when market conditions make such an option financially preferred.

#### 8.0 DEBT LIMITS

8.1 The total principal amount of general obligation bonds together with the principal amount of all other outstanding tax-supported indebtedness of the City shall not exceed 10% (ten percent) of the total taxable assessed valuation of the City's tax rolls. (International City/County Management Association (ICMA) indicator 21)

Formula:

Net direct bonded long-term debt

Total taxable assessed valuation

*Net direct bonded long-term debt* is defined as direct debt minus self-supporting debt.

*Direct debt* is defined as bonded debt for which the local government has pledged its full faith and credit.

*Self-supporting debt* is bonded debt that the local government has pledged to repay from a source separate from its general tax revenues.

**8.2** Net direct debt service as a percent of Net Operating Revenues should not exceed 20% (twenty percent). (ICMA indicator 21)

Formula:

Net direct debt service

Net operating revenues

*Net direct debt service* is the principal covered by ad valorem taxes. *Net operating revenues* are the total revenues to the general, special revenue and debt service funds before any inter-fund transfer and less those revenues legally restricted to capital improvements or other special purposes. (*Evaluating Financial Condition: A Handbook for Local Government, 2003, ICMA*)

#### 9.0 MATURITY LEVELS

**9.1** The term of debt shall not exceed the expected useful life of the capital asset being financed and in no case shall it exceed 30 years. The average general obligation bond maturities shall be kept at or below 26 years.

#### 10.0 MANAGEMENT OF DEBT SERVICE FUND

- **10.1** Interest earnings from unspent proceeds related to general obligation bonds and certificates of obligation shall be used solely to fund direct or related capital expenditures or to service current and future debt payments as determined by City Council in accordance to the bond ordinance. Interest earnings will be allocated in accordance with the City's Investment Policy, adopted annually by Council, and/or the bond ordinance which authorized the specified debt obligation.
- **10.2** Debt service reserves for tax-supported debt shall not exceed a three-month reserve of the current year total debt service expenditure budget (i.e. Total Annual Debt Service Budget/12-months x 3 months). If this reserve balance is exceeded after the last debt payment of the fiscal year, a plan should be adopted to reduce the size of the reserves as quickly as possible without causing large variances in the ad valorem property tax rate.
- **10.3** The minimum debt service fund balance should exceed the debt service portion of the largest taxpayer's tax levy for the ensuing fiscal year.
- **10.4** Debt service reserves for revenue bonds shall be maintained at levels required by controlling bond ordinances.
- **10.5** The City adopted GASB 89 in regard to Capitalized Interest Cost. In financial statements prepared using the economic resources measurement focus, interest

cost incurred before the end of a construction period should be recognized as an expense in the period in which the cost is incurred. Such interest cost should not be capitalized as part of the historical cost of a capital asset. In financial statements prepared using the current financial resources measurement focus, interest cost incurred before the end of a construction period should be recognized as an expenditure on a basis consistent with governmental fund accounting principles. (Governmental Accounting Standards Board, Statement 89)

**10.6** The City does not use derivatives in any debt or investment activities.

#### 11.0 ARBITRAGE

In a municipal bond context, *arbitrage* refers to investment earnings which a local government makes on funds which are borrowed in the tax-exempt market and invested in the taxable market. Generally, federal tax law prohibits the investment of bond proceeds at a yield which is materially higher than the yield on the bonds (i.e., prohibits positive arbitrage). As a result of this general prohibition, the City's issuance of tax-exempt indebtedness is governed by federal yield restriction rules (rules which govern whether and the extent that bond proceeds may be invested at a yield higher than the yield on the bonds) and rebate rules (rules which govern when arbitrage earned must be "rebated" to the federal government).

The City finances certain capital projects and debt refinancing through the issuance of taxadvantaged debt and it is the City's policy to comply with all applicable laws, regulations and contracts applicable to the debt.

Tax-advantaged bonds (tax-exempt, tax credit and direct pay) are obligations that receive preferential tax treatment under the Internal Revenue Code (the "Code"). Tax-advantaged status remains throughout the life of the debt, but this status may be lost if certain federal laws do not remain satisfied. Failure by the City to comply with these laws at any time during the life of the debt may result in the retroactive and prospective loss of the tax-advantaged status of the debt or the imposition of additional taxes or assessments on the City. Therefore, the Financial and Audit Oversight Committee was created with the purpose of overseeing policies set forth.

The City shall comply with all arbitrage rebate requirements as established by the Internal Revenue Service and the CFO shall establish a system of record keeping and reporting to meet the arbitrage rebate compliance requirements of the federal tax code. This effort shall include tracking project expenditures financed with bond proceeds, tracking investment earnings on bond proceeds, calculating rebate payments in compliance with tax law, and remitting any rebatable earnings to the federal government in a timely manner in order to preserve the tax-exempt status of the City's outstanding tax-exempt debt issues. The City enters into an agreement with an arbitrage service provider to assist the City with complying with arbitrage regulations.

#### **12.0 CONTINUING DISCLOSURE**

The City will comply when applicable with Rule 15(c)2-12 of the Securities and Exchange Commission by filing an annual report and annual financial information with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System (EMMA). The City will also coordinate filing reportable events in EMMA with the Municipal Financial Advisor within 10 days of event taken place.

#### 13.0 FINANCIAL OVERSIGHT AND AUDIT COMMITTEE

The Financial Oversight and Audit Committee (FOAC), was created by the City Council by Resolution dated August 21, 2012 (the "Committee") and is responsible for reviewing and making recommendations to the entire City Council regarding the financial affairs and policies

of the City, including City compliance with post-issuance federal tax requirements for the City's tax-advantaged debt. The CFO has the primary operating responsibility for establishing and maintaining the policy and guidelines to support compliance and for monitoring compliance on an ongoing basis with post-issuance federal tax requirements for the tax-advantaged debt. The policy and guidelines shall describe the processes used to ensure compliance with applicable laws, regulations and contracts, and identify the positions and individuals responsible for these processes. The guidelines should be consistent with those items referenced in IRS Publication 5091 Voluntary Compliance for Tax-Exempt and Tax Credit Bonds. To aid in ensuring compliance, staff will utilize the Post-issuance of the Arbitrage Consultant, Bond Council and Municipal Financial Advisor. The CFO shall also consider options for voluntary corrections for failure to comply with post-issuance compliance requirements (such as remedial actions under Tax Exempt Bonds Voluntary Closing Agreement Program (TEB VCAP)) and shall take corrective action when necessary as established by the City's Post-issuance Compliance Policy Section 10.

#### 14.0 DEBT SERVICE TAX RATE

Council shall adopt the necessary debt service tax rate up to a maximum amount of forty cents (40  $\ddagger$ ) per \$100 valuation in order to meet debt service principal, interest and fee payments, net of transfers, for each particular fiscal/budget year, subject to any reserve availability as outlined in 10.2 above.

#### 15.0 RATINGS

- **15.1** The City will strive to maintain good relationships with bond rating agencies as well as disclose financial reports and information to these agencies and to the public.
- **15.2** The City will obtain a rating from at least one nationally recognized bond-rating agency on all issues being sold on the public market.
- **15.3** Timely disclosure of annual financial information including other information will be provided to the rating agencies. The Annual Comprehensive Financial Report (ACFR) will be prepared by management and attested to by an outside nationally recognized audit firm.
- **15.4** Timely disclosure of any pertinent financial information that could potentially affect the City's credit rating will also be presented to the ratings agencies, required information repositories, bond insurance companies insuring City debt, and commercial banks providing liquidity support for commercial paper programs.

#### 16.0 SELECTION OF FINANCIAL ADVISORS

- **16.1** In order to obtain the best price, achieve a high level of quality service, promote fairness and objectivity, and allow the City to compare Financial Advisors, the City will prepare a RFQ to select a Financial Advisor at least once every five years. City staff should review ongoing contracts periodically to ensure that the selected Financial Advisor is performing at a satisfactory level.
- **16.2** The Financial Advisor selected will provide financial advisory services related to the authorization and issuance of debt instruments or other securities as well as debt management planning services as requested by the City.
- **16.3** Any RFQ developed should provide, at a minimum, a clear and concise description of the scope of work, specify the length of the contract and indicate whether joint proposals

with other firms are acceptable; include objective selection criteria and explain how proposals will be evaluated; and require all fee structures to be presented in a standard and clear format. In addition, the RFQ should include questions that distinguish firms' qualifications and experience, including relevant experience of the firm and the particular individuals assigned to the issuer.

#### **17.0 SELECTION OF UNDERWRITERS**

- **17.1** In order to obtain the best price, achieve a high level of quality service, promote fairness and objectivity, and allow the City to compare underwriters, the City will prepare a RFQ to select underwriters at least once every five years. Although the City anticipates using this RFQ as the basis for selecting Underwriters for all future debt issuances for general obligation, contractual obligations, revenue bonds and other such type debt, the City may solicit underwriters for certain future debt instruments that it determines require additional consideration or specialty such as pension obligation debt issuances.
- **17.2** A list of selected underwriters will be developed from responses to the RFQ process, which shall be provided to Council for its approval. This list will be used on a rotation basis from which to select underwriters for a particular transaction. City staff should review ongoing contracts periodically to ensure that the selected underwriter(s) are performing at a satisfactorylevel.
- **17.3** Any RFQ developed should provide, at a minimum, a clear and concise description of the scope of work, specify the length of the contract and indicate whether joint proposals with other firms are acceptable; include objective selection criteria and explain how proposals will be evaluated; and require all fee structures to be presented in a standard and clear format. In addition, the RFQ should include questions related distinguish firms' qualifications and experience, including relevant experience of the firm and the particular individuals assigned to the issuer.

#### 18.0 SELECTION OF BOND COUNSEL

- **18.1** The CFO shall coordinate with the City Attorney on the recommendation of bond counsel for debt issues. The recommendation will be submitted to the City Manager and upon approval by the City Manager, will then be forwarded to the City Council for final authorization and approval. Bond counsel will have comprehensive municipal debt knowledge and experience. When the bond counsel has been selected, they are responsible for providing an opinion to investors in two specific areas. The bond counsel must opine to investors that the securities are valid and legally binding obligations of the issuer. Then, the bond counsel will opine on whether the interest on the bonds is exempt from federal taxation.
- **18.2** The bond counsel also prepares all bond documents necessary to execute the bond issuance. The bond counsel is responsible for coordinating with the City Attorney's office, City Clerk's office, and the Chief Financial Officer's Portfolio, as well as the City's financial advisor, to ensure that all tasks associated with the bond issuance are completed within prescribed timeframes. To the extent required by State law, bond counsel is responsible for coordinating with the Office of the Attorney General and the Office of the Comptroller of Public Accounts of the State of Texas matters relating to the approval of City obligations. The City values continuity in maintaining a relationship with bond counsel due to the complexity of issues and laws related in issuing municipal bonds. However, the City reserves the right to conduct a formal request for qualifications process.

#### **19.0 SELECTION OF ARBITRAGE REBATE COMPLIANCE SERVICES**

- **19.1** In order to obtain the best price, achieve a high level of quality service, promote fairness and objectivity, and allow the City to compare companies offering arbitrage rebate compliance services, the City will prepare a RFQ to select a company at least once every five years. City staff should review ongoing contracts periodically to ensure that the selected company is performing at a satisfactory level.
- **19.2** The company selected will provide arbitrage rebate compliance services related to the long-term tax exempt bonds and other tax exempt financing arrangements that are subject to the arbitrage rebate requirements in accordance with the applicable provisions of the Internal Revenue Code of 1986, as amended and the Treasury Regulations applicable to the long-term obligations.
- **19.3** Any RFQ developed should provide, at a minimum, a clear and concise description of the scope of work, specify the length of the contract and indicate whether joint proposals with other firms are acceptable; include objective selection criteria and explain how proposals will be evaluated; and require all fee structures to be presented in a standard and clear format. In addition, the RFQ should include questions that distinguish firms' qualifications and experience, including relevant experience of the firm and the particular individuals assigned to the issuer.

#### 20.0 DEBT MANAGEMENT POLICY REVIEW

This Debt Management Policy shall be reviewed at least biennially by the City Council and any modifications must be adopted by Council.



Legislation Text

#### File #: 22-1500, Version: 2

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### All Districts

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

That the City Manager, or designee, is authorized to sign an Advance Funding Agreement by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation ("Department"), for the design, construction, and installation of Intelligent Transportation Systems (ITS) at the Bridge of the Americas (BOTA) and Zaragoza International Ports of Entry ("Project"). The Project has an estimated total project cost of \$18,000,000.00. The Department will pay \$17,904,000.00 from the Texas Mobility Fund ("TMF") to the Local Government for a portion of the Project. The Department's direct cost is an estimated amount of \$96,000.00, which is the balance between the payment from the TMF and the total project cost. Further, that the City Manager, or designee, is authorized to sign all documents, agreement amendments, and perform all actions required to carry out the obligations of the City under this agreement.

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

AGENDA DATE: PUBLIC HEARING DATE:	November 22, 2022 N/A
CONTACT PERSON(S) NAME AND PHONE NUMBER:	Yvette Hernandez, (915) 212-1860
DISTRICT(S) AFFECTED:	Citywide
STRATEGIC GOAL:	No.7: Enhance and Sustain El Paso's Infrastructure Network
SUBGOAL:	N/A

#### SUBJECT:

That the City Manager, or designee, is authorized to sign an Advance Funding Agreement by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation ("Department"), for the design, construction, and installation of Intelligent Transportation Systems (ITS) at the Bridge of the Americas (BOTA) and Zaragoza International Ports of Entry ("Project"). The Project has an estimated total project cost of \$18,000,000.00. The Department will pay \$17,904,000.00 from the Texas Mobility Fund ("TMF") to the Local Government for a portion of the Project. The Department's direct cost is an estimated amount of \$96,000.00, which is the balance between the payment from the TMF and the total project cost. Further, that the City Manager, or designee, is authorized to sign all documents, agreement amendments, and perform all actions required to carry out the obligations of the City under this agreement.

#### BACKGROUND / DISCUSSION:

The scope of work for this Project consists of the design, construction, and installation of Intelligent Transportation Systems (ITS) at the Bridge of the Americas (BOTA) and Zaragoza International Ports of Entry. BOTA and the Zaragoza International Ports of entry are off of the TxDOT System.

#### PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING: Texas Mobility Fund

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES \_\_\_\_NO

PRIMARY DEPARTMENT: Capital Improvement Department SECONDARY DEPARTMENT:

DEPARTMENT HEAD:

Guette Hernandez

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

#### RESOLUTION

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

THAT the City Manager, or designee, is authorized to sign an Advance Funding Agreement by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation ("Department"), for the design, construction, and installation of Intelligent Transportation Systems (ITS) at the Bridge of the Americas (BOTA) and Zaragoza International Ports of Entry ("Project"). The Project has an estimated total project cost of \$18,000,000.00. The Department will pay \$17,904,000.00 from the Texas Mobility Fund ("TMF") to the Local Government for a portion of the Project. The Department's direct cost is an estimated amount of \$96,000.00, which is the balance between the payment from the TMF and the total project cost. Further, that the City Manager, or designee, is authorized to sign all documents, agreement amendments, and perform all actions required to carry out the obligations of the City under this agreement.

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

THE CITY OF EL PASO:

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

#### **APPROVED AS TO CONTENT:**

Roberta Brito Assistant City Attorney

Gvette Hernandez Yvette Hernandez, City Engineer

Yvette Hernandez, City Engineer Capital Improvement Department

22-1004-1450 | 1214101 | AFA Intelligent Transportation System (ITS) at BOTA and Zaragoza POE / RAB

CSJ #:	0924-06-619
District #:	24 EL PASO
Code Chart 64 #:	13400
Project	ITS Infrastructure at Zaragoza and
Name:	BOTA International Ports of Entry

STATE OF TEXAS §

COUNTY OF TRAVIS §

#### ADVANCE FUNDING AGREEMENT For a Texas Mobility Fund Grant To The City of El Paso, Texas For A Public Transportation Project Off-System

THIS ADVANCE FUNDING AGREEMENT (Agreement) is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "Department," and the City of El Paso, Texas, acting by and through its duly authorized officers, called the "Local Government," (individually the "Party" and collectively the "Parties" to this Agreement).

#### WITNESSETH

WHEREAS, Article III, Section 49-k of the Texas Constitution (Constitutional Provision) created the Texas Mobility Fund (TMF) in the State Treasury and provides that the TMF shall be administered by the Texas Transportation Commission as a revolving fund to provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways and to provide participation by the Texas Transportation Commission in the payment of a portion of the costs of constructing and providing publicly-owned toll roads and other public transportation projects, in accordance with the procedures, standards and limitations established by law; and

WHEREAS, the 86<sup>th</sup> Texas Legislature required that, from any available source of revenue, an amount not to exceed \$32,000,000 shall be allocated to provide funding for the design, construction, acquisition, and installation of an intelligent transportation system and the design and construction of infrastructure projects at the international port of entry at the Bridge of Americas and the international port of entry at the Ysleta Bridge, also known as the Zaragoza Bridge, in El Paso, on right of way or other property that is part of our outside the state highway system, to increase security measures and expedite border crossings and trade, as held under the General Appropriations Act (HB 1, 86<sup>th</sup> Texas Legislature, 2019, Rider 44, page. VII-30); and

WHEREAS, by Minute Order 116052dated 07/29/2021, attached hereto as Attachment A; Minute Order for TMF Funds, the Texas Transportation Commission approved state participation in the form of a grant in an amount not to exceed \$18,000,000 from the Texas Mobility Fund (the "TMF funds") to pay a portion of the costs of the project as described in this Agreement, Article 2, Scope of Work (Project), and authorized the Executive Director of the Department or his designee to take all actions necessary to effect the purposes of the minute order; and

WHEREAS, the governing body of the Local Government passed a Resolution on {Enter Date of Resolution}, attached to and made a part of this Agreement as Attachment B, Resolution or Ordinance, authorizing the Local Government's authorized representative to enter into this Agreement; and

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**NOW, THEREFORE,** in consideration of the premises and of the mutual covenants and agreements of the Parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

#### AGREEMENT

#### 1. Period of the Agreement

This Agreement becomes effective when signed by the last Party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed and all excess funds are disbursed, unless earlier terminated as provided in this Agreement.

#### 2. Scope of Work

- A. The scope of work of the Project is as follows: The scope of work for this Project consists of the design, construction, and installation of Intelligent Transportation Systems (ITS) at the Bridge of the Americas (BOTA) and Zaragoza International Ports of Entry. BOTA and the Zaragoza International Ports of entry are off of the TxDOT System.
- **B.** A map showing the Project appears in Attachment C, Location Map Showing Project, which is attached to and made a part of this Agreement.

#### 3. Local Government Project Sources and Uses of Funds

- A. The maximum amount of the Department's participation in the Project is \$17,904,000 as shown in Attachment D, Project Budget (Attachment D), which is attached to and made a part of this Agreement. The Department will pay money in an amount not to exceed \$17,904,000 to the Local Government from the TMF to be used for construction (by the Local Government) of the Project, called the "Eligible Project Costs". The Department will pay for only those Eligible Project Costs that have been approved by the Texas Transportation Commission. The Local Government shall not make or implement any changes to the Project scope without the written approval of the Department. The Local Government is responsible for all other Project costs, including 100% of the cost of any work performed under its direction or control before the Department spending authority is formally obligated.
- B. If requested by the Department, the Local Government shall reimburse the Department for any TMF funds paid under this Agreement that are used for costs that are not Eligible Project Costs in a manner determined by the Department. If all of the TMF funds are not used for the payment of Eligible Project Costs within 10 years of execution of this Agreement or if the Department determines that the Local Government will not be able to use the TMF funds for the Project, the Local Government shall perform an audit of the TMF funds that were spent on Eligible Project Costs, subject to approval by the Department, and at the Department's option shall use any excess TMF funds paid under this Agreement for additional Eligible Project Costs or use them for other legally authorized purposes as approved by the Department.
- C. The Department will be responsible only for the Department's share of the funding required for the development and construction of the Project as specified in this Agreement, such amount being the maximum liability of the Department under this Agreement.

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- D. The Local Government will be responsible for all non-federal or non-Department participation costs associated with the Project, otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement, including any costs of completing the Project that exceeds the amount provided by the Department under this Agreement.
- E. Upon completion of the Project, the Local Government will perform an audit of the TMF funds that were spent on Eligible Project Costs, subject to approval by the Department, and may, at the Department's option, use any excess TMF funds not paid under this Agreement for additional Eligible Project Costs or use them for other legally authorized purposes as approved by the Department.
- F. The State Auditor may conduct an audit or investigation of any entity receiving funds from the Department directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.
- **G.** Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement may be terminated immediately by the Department with no liability to either Party.
- H. Since the Department's payment is a reimbursement to the Local Government on a cost basis as shown in Attachment D, the Local Government is authorized to submit requests for reimbursement in accordance with Section 4 below.
- I. The Local Government shall provide the Department any information needed to timely deliver the funds to the Local Government's depository bank, which must be approved by the Department, in a separate account that is dedicated to the payment of Project costs.
- J. If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the Department, the Local Government must complete training. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled "Local Government Project Procedures and Qualification for the Texas Department of Transportation." The Local Government shall provide the certificate of qualification to the Department. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The Department in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.

#### 4. Disbursement of TMF Funds

- A. The Department will, 60 days after execution of this agreement, deliver the funds as shown in Attachment D, Project Budget, to the Local Government.
- B. Omitted
- C. Omitted
- D. Omitted
- E. Omitted
- F. Omitted

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G. To the extent funds disbursed hereunder are utilized to procure tangible work product consistent with the authorized purposes under this Agreement, the Department shall have the right to review such work product.

#### 5. Non-Performance, Stop Work Orders, and Termination of this Agreement

This Agreement shall remain in effect until the Project is completed or all TMF funds are used in accordance with this Agreement, unless:

- A. The Agreement is terminated in writing by the Parties; or
- **B.** The Agreement is terminated by the Department because of non-performance or a breach by the Local Government, subject to the following provisions:
  - (1) NON-PERFORMANCE. The Department shall provide notice to the Local Government of the occurrence of any circumstances deemed by the Department to be non-performance by the Local Government under this Agreement. Within thirty (30) days of receipt of the Department's notice, the Local Government shall remedy the non-performance and notify the Department of the remedy effected, or shall provide written notification to the Department of the actions it has taken to address the non-performance. The Parties agree that any of the following occurrences constitutes non-performance by the Local Government under this Agreement:
    - (a) the Local Government fails to complete the Project in accordance with this Agreement, other than because of the failure of the Department to deliver the TMF funds as provided herein, because of force majeure, or because of any other reason allowed in this Agreement;
    - (b) the Local Government expends TMF funds on anything other than Eligible Project Costs without reimbursing the Department in accordance with this Agreement; and
    - (c) the Local Government fails to use the TMF funds in accordance with this Agreement.
  - (2) STOP WORK ORDERS.
    - (a) <u>Stop Work Order</u>. The Department may issue a written Stop Work Order (SWO) to the Local Government at any time for any violation of this Agreement, including non-performance. The SWO shall provide the Local Government with notice of the facts underlying the determination to issue the SWO. The SWO may require an immediate cessation of work or the cessation of work at a definite future date. The SWO shall provide the Local Government with a definite limited time to cure the conditions underlying the SWO.
    - (b) Local Government's Response. The Local Government shall provide a written response to the SWO and shall provide the Department with a detailed plan to address and cure the conditions supporting the SWO. The Local Government shall provide the response within three (3) business days from its receipt of the SWO.
    - (c) <u>Department's Reply</u>. The department may accept, reject or amend the Local Government's request for opportunity to cure the conditions supporting the SWO and shall provide notice of such action to the Local Government within three business days of receipt of the response. The Department may issue an amended SWO that allows resumption of work contingent upon the Local Government's execution of the plan to

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cure. The amended SWO may modify the Local Government's plan to cure only in a manner consistent with the terms and conditions of this Agreement.

- (d) Local Government's Option. The Local Government shall notify the Department within three (3) business days whether it accepts the amended SWO. If the Local Government does not accept the amended SWO, the Department may terminate this Agreement. Upon successful completion of the plan to cure the conditions underlying the SWO, the Local Government shall continue work to complete all obligations under this Agreement.
- (3) TERMINATION.
  - (a) Subject to the notice and opportunity to cure provisions herein, the Department may terminate this Agreement at any time for nonperformance. Termination shall be effective thirty (30) days after the Local Government's receipt of written notice of termination. Upon receipt of such notice, the Local Government shall immediately discontinue all work in connection with the performance of this Agreement and shall promptly cancel all existing orders or other financial commitments chargeable to funding provided pursuant to this Agreement as directed by the Department.
  - (b) Within thirty days of the notice of termination, the Local Government shall submit a statement showing in detail the work performed, any payments received by the Local Government, and any payments made by or due from the Local Government to any contractor pursuant to the terms of this Agreement prior to the date of termination, all in the form of a final audit.
  - (c) The Local Government elects not to proceed with the Project, after the completion of preliminary engineering, specifications, and estimates (PS&E), because of insufficient funds, in which case the Local Government agrees to use all unused TMF funds paid under this Agreement that are not expended on Eligible Project Costs as directed by the Department, which may include for additional Eligible Project Costs, for other legally authorized purposes as approved by the Department, or returned to the Department, at the Department's option.

#### 6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the Parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

#### 7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any Agreement default, but all remedies existing at law and in equity may be availed of by either Party and shall be cumulative.

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#### 8. Utilities

The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state and federal laws, regulations, rules, policies, and procedures.

#### 9. Environmental Assessment and Mitigation

- A. The Local Government is responsible for the identification and assessment of any environmental problems associated with the development of the Project subject to this Agreement.
- **B.** The Local Government is responsible for the cost of any environmental problem's mitigation and remediation.
- C. The Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment. Public hearings will not be held prior to the approval of project schematic.
- **D.** The Local Government is responsible for the preparation of documents required for the environmental clearance of the Project.
- E. Before the advertisement for bids, the Local Government shall provide to the Department written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

#### 10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

#### 11. Architectural and Engineering Services

The Local Government has responsibility for the Project, including the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the industry standards applicable to the Project, including the Local Government's applicable Design Criteria, Specifications, Standard Drawing, and Directive Drawing standards. For highway projects not on the state highway system, the design shall, at a minimum, conform to applicable *American Association of State Highway and Transportation Officials* design standards. In procuring professional services, the Parties to this Agreement must comply with Texas Government Code 2254, Subchapter A.

#### 12. Construction Responsibilities

- A. The Local Government is responsible for administration of any construction contracts for the Project and shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project in compliance with applicable law. Administration of a contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract.
- **B.** Projects must be authorized by the Department before the Local Government awards the construction contract to the contractor.

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- C. The Local Government will use its approved contract letting and award procedures to let and award the construction contract.
- D. Upon completion of the Project, the Party constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion that is acceptable to the Department. The Notice of Completion shall certify that the Project has been completed and all necessary inspections have been conducted.
- E. The Department may require reports on the progress of the Project. If requested in writing, the Local Government shall submit to the Department, for each succeeding thirty (30) day period (hereinafter a "month" or "reporting period") following the execution of this Agreement and until the completion of the Project, a report of the work performed during the preceding month, which shall contain, at a minimum, the following:
  - a brief description of the progress of work since the last report, including each activity performed and the percentage of total completion of each and every activity;
  - (2) a description of any problems encountered during the reporting period that may affect the construction of the Project, or that may inhibit the completion of, or cause a change in, any objectives or costs of the Project;
  - (3) a description of actions, if any, the contractor(s) or the Local Government intends or proposes to take to correct all problems identified in subparagraph (2) above; and
  - (4) any perceived or anticipated changes in the schedule, objectives, or costs for the Project.

#### 13. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned facilities and equipment after completion of the work.

#### 14. Right of Way and Real Property

- A. Right of way and real property acquisition shall be the responsibility of the Local Government. Title to right of way and other related real property must be acceptable to the Department before funds may be expended for the improvement of the right of way or real property.
- B. If the Local Government is the owner of any part of the Project site under this Agreement, the Local Government shall permit the Department or its authorized representative access to occupy the site to perform all activities required to execute the work.
- C. All Parties to this Agreement will comply with and assume the costs for compliance will all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to the Department and its representatives for review and inspection.
- D. The Local Government shall assume all costs and perform necessary requirements to provide any necessary evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence

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of title or rights shall be acceptable to the Department, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.

- E. In the event real property is donated to the Local Government after the date of the Department's authorization, the Local Government will provide all documentation to the Department regarding fair market value of the acquired property. The Department will review the Local Government's appraisal, determine the fair market value and credit that amount towards the Local Government's financial share. If donated property is to be used as a funding match, it may not be provided by the Local Government. The Department will not reimburse the Local Government for any real property acquired before execution of this Agreement, if applicable.
- F. The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to the Department for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- **G.** The Local Government agrees to make a determination of property values for each real property parcel by methods acceptable to the Department and to submit to the Department a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership, acreage and recommended compensation. Compensation shall be shown in the component parts of land acquired, itemization of improvements acquired, damages (if any) and the amounts by which the total compensation will be reduced if the owner retains improvements. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of information or reports used in calculating all determined values.
- H. If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this Agreement. The separate agreement must establish that the Project will be dedicated for public use for a period of not less than ten (10) years after completion. The separate agreement must define the responsibilities of the Parties to the use of the real property and operation and maintenance of the Project after completion. The separate agreement must be approved by the Department prior to its execution. A copy of the executed agreement shall be provided by the Department.

#### 15. Notices

All notices to either Party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that Party at the following address:

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Local Government	Department
P.O. Box 1890	Texas Department of Transportation Director of Contract Services 125 E. 11 <sup>th</sup> Street Austin, TX 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this Agreement. Either Party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

#### 16. Legal Construction

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

#### 17. Responsibilities of the Parties

The Department and the Local Government agree that neither Party is an agent, servant, or employee of the other Party and each Party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

#### 18. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the Local Government shall remain the property of the Local Government. All data prepared under this Agreement shall be made available to the Department without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the Department in the form of photocopy reproduction on a monthly basis as required by the Department. The originals shall remain the property of the Local Government. At the request of the Department, the Local Government shall submit any information required by the Department in the form at directed by the Department.

#### 19. Compliance with Laws

The Parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement, including without limitation workers' compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws and regulations, licensing laws, regulations, and the Texas Uniform Grant Management Standards. When required, the Local Government shall furnish the Department with satisfactory proof of this compliance.

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#### 20. Sole Agreement

This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

#### 21. Inspection of Books and Records

- A. <u>Duty to Maintain Records</u>. The Parties to this agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to Project costs incurred under this Agreement in accordance with Generally Accepted Accounting Principles. The Local Government shall also require its contractors to maintain financial accounting records consistent with Generally Acceptable Accounting Principles and with state laws applicable to government accounting. All accounting and other financial documentation shall be accurate, current, and shall reflect recordation of the transactions at or about the time the transactions occurred.
- B. <u>Duty to Retain Records</u>. The Local Government shall retain all financial records and supporting documents and any other documents pertinent to the Project in accordance with the requirements of applicable state law relating to retention and access to records. The Department requires the Local Government to retain all records related to this Agreement for a period of four (4) years after submission of the audit upon completion of the Project and any litigation or claims regarding the Project or this Agreement are resolved.
- C. Access to Records. The Local Government shall make Project materials available to the Department for review and inspection at its office during the contract period and for four (4) years after submission of the audit upon completion of the Project and any litigation or claims regarding the Project or this Agreement are resolved. Additionally, the Department and the Local Government shall have access to all the records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions. The Local Government understands and agrees that all documents relating to this Agreement are subject to the Public Information Act, Tex. Gov't Code, Chapter 552, and that such documents may not be withheld from public disclosure, except in accordance with law and with the rulings of the Texas Attorney General. The Local Government's records related to this Agreement.

#### 22. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on Department right of way, before beginning work the entity performing the work shall provide the Department with a fully executed copy of the Department's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on Department right of way. This coverage shall be maintained until all work on the Department right of way is complete. If coverage is not maintained, all work on Department right of way shall cease immediately, and the Department may recover damages and all costs of completing the work.

#### 23. Investment and Collateralization of Funds

The Local Government shall deposit the TMF funds in a state depository bank designated by the Texas Office of the Comptroller and approved by the Department, and the funds shall be handled in a manner that complies with the Public Funds Investment Act, Texas Government

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Code, Chapter 2256; and shall be adequately collateralized in a manner sufficient to protect the Department's interest in the Project that complies with the Public Funds Collateral Act, Texas Government Code, Chapter 2257.

#### 24. Historically Underutilized Business (HUB) and Small Business Enterprise (SBE) Requirements

For projects with state funds and no federal funds, the Local Government will be required to follow the provisions of Texas Transportation Code §201.702 and 43 TAC §§9.354-9.355 (HUB) and §§9.314-9.315 (SBE). The Local Government must incorporate project goals approved by TxDOT into project documents before advertising for receipt of bids. Contractors must select HUBs and SBEs from TxDOT-approved or maintained sources. The Local Government will provide monthly updates of HUB/SBE (as appropriate) participation and report final accomplishments to TxDOT for credit to overall program goals.

For projects with no state or federal funds that are not on the state or federal highway systems, the Local Government should follow its own local or specific ordinances and procedures. Local Governments are encouraged to use HUBs and SBEs from TxDOT-approved or maintained sources. The Local Government must also report final HUB accomplishments to TxDOT for credit to overall program goals.

#### 25. Debarment Certifications

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

#### 26. Pertinent Non-Discrimination Authorities

During the performance of this contract, the Local Government, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (49 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- **G.** The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by

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expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).

- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

#### 27. Force Majeure

Unless otherwise provided, neither the Local Government nor the Department nor any agency of the State of Texas, shall be liable to the other for any delay in, or failure of performance of a requirement contained in this Agreement caused by *force majeure*, meaning a failure or delay in a Party's performance under this Agreement that is caused by acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either Party and that by exercise of due foresight such Party could not reasonable have been expected to avoid, and which, by the exercise of all reasonable due diligence, such Party is unable to overcome. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing Party exercises all reasonable due diligence to perform. Each Party must inform the other in writing with proof of receipt within five (5) business days of the existence of such *force majeure* or otherwise waive this right as a defense.

#### 28. Survival of Terms and Conditions

- A. Termination or expiration of this Agreement for any reason shall not release either Party from any liabilities or obligations set forth in this Agreement that:
  - the Parties have expressly agreed shall survive any such termination or expiration, if any; or
  - (2) by their nature, would be intended to be applicable following any such termination or expiration.
- **B.** The Parties expressly agree that the following terms and conditions survive the termination of the Agreement, regardless of the reason for the termination.
  - (1) Section 3.B. and 3.F., regarding the use of the TMF funds.

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(2) Section 6. Remedies.

#### 29. Non-Assignability

The terms and conditions of the financial assistance provided by this Agreement may not be assigned, transferred, or subcontracted in any manner without the express written consent of the Department.

#### 30. Entire Agreement and Amendment

This Agreement constitutes the entire agreement between the Department and the Local Government and no prior or contemporaneous oral or written promises or representations shall be binding on either Party. No modification of any provision of this Agreement shall be effective except by written amendment executed by an authorized representative of each Party.

#### 31. Required Notice

The Local Government shall promptly notify the Department of any adverse change in the activities, prospects, or conditions (financial or otherwise) of the Local Government relating to the Project, or its ability to observe and perform its duties, covenants, obligations, and agreements under this Agreement.

#### 32. No Waiver

The failure of any Party to insist upon the strict performance of any of the terms, provisions, or conditions of this Agreement shall not be construed as a waiver or relinquishment for the future of the strict performance of any such term, provision, or condition or any other term, provision, or condition.

#### 33. No Debt Created

Each Party agrees and understands that, by this Agreement, the State of Texas, acting through the Department, is not lending its credit or in any manner creating a debt on behalf of the State of Texas.

#### 34. Law

The validity, operation, and performance of this Agreement shall be governed and controlled by the laws of the State of Texas and applicable federal regulations, and the terms and conditions of this Agreement shall be construed and interpreted in accordance with the laws of this state. The Parties understand and agree that this Agreement is for the provision of financial assistance for the Project and as such all or part of the performance of the terms and obligations of the Agreement will be performed in El Paso County. Notwithstanding the location of the Project, the Parties understand and agree that any proceeding brought for any breach of this Agreement involving the Department shall be in Travis County, Texas. This section does not waive the sovereign immunity of the State of Texas or the Department.

#### 35. Information Resources & Security Compliance

The Local Government and their subproviders must comply with Attachment D, Information Resources and Security Requirements, which is attached to and made part of this agreement. Additionally, by executing this agreement, the Local Government certifies that it has provided the required evidence of compliance to TxDOT.

CSJ #:	0924-06-619		
District #:	24 EL PASO		
Code Chart 64 #:	13400		
Project	ITS Infrastructure at Zaragoza and		
Name:	BOTA International Ports of Entry		

#### 36. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the Department and the Local Government.

THE LOCAL GOVERNMENT

THE CITY OF EL PASO

By:

Date

#### APPROVED AS TO CONTENT:

Gvette Hernandez

Yvette Hernandez, P.E. City Engineer

> STATE OF TEXAS Texas Department of Transportation

> > Signature

Kenneth Stewart Typed or Printed Name

Director of Contract Services Typed or Printed Title

Date

#### APPROVED AS TO FORM:

Douto Reat

Roberta Brito Assistant City Attorney

Samuel Rodriguez, Chief Operations Officer for Tomás González, City Manager

CSJ #:	0924-06-619
District #:	24 EL PASO
Code Chart 64 #:	13400
Project Name:	ITS Infrastructure at Zaragoza and BOTA
	International Ports of Entry

#### ATTACHMENT A MINUTE ORDER FOR TMF FUNDS

#### TEXAS TRANSPORTATION COMMISSION

El Paso County

#### MINUTE ORDER

Page 1 of 1

El Paso District

In 2019, under the General Appropriations Act (HB 1, 86<sup>th</sup> Texus Legislature 2019), Rider 44, page VII-30, the Texus Legislature required that, from any available source of revenue, an amount not to exceed \$32,000,000 shall be allocated to provide funding for the design, construction, acquisition, and installation of an intelligent transportation system, and the design and construction of infrastructure projects at the international ports of entry at the Bridge of the Americas (BOTA) and at the Ysleta Bridge, also known as the Zaragoza Bridge, in El Paso, on right of way or other property that is part of or outside the stuff highway system, to increase security measures and expedite border crossings and trade (generally described as the Intelligent Transportation Systems Infrastructure project).

The City of El Paso (City) submitted a request to the Texus Department of Transportation (department) for state participation in the form of a grant of funds in the amount of up to \$18,000,000 to pay a portion of the costs of the Intelligent Transportation Systems Infrastructure project.

Article III, Section 49-k of the Texas constitution (constitutional provision) created the Texas Mobility Fund (fund) in the state treasury and provides that the fund shall be administered by the Texas Transportation Commission (commission) as a revolving fund to provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways and to provide participation by the state in the payment of a portion of the costs of constructing and providing publicly-owned toll roads and other public transportation projects, in accordance with the procedures, standards and limitations established by law.

The Texas Legislature implemented the authority granted by this constitutional provision in Transportation Code, Chapter 201, Subchapter M (enabling act). Transportation Code §201.943 provides that the commission, by order, may issue obligations, including Texas Mobility Fund General Obligation Bonds, secored by and payable from a pledge of and lien on all or part of the money in the fund.

IT IS THEREFORE ORDERED by the commission that the Intelligent Transportation Systems Intrastructure project meets the eligibility requirements for state participation under the constitutional provision, and the commission approves the state participation in the form of a grant in the amount of up to \$18,000,000 to the City from any available source of revenue, including money in the fund other than the proceeds of obligations issued under the enabling act, to be used for the Intelligent Transportation Systems Infrastructure project, and authorizes and directs the executive director of the department to take all actions necessars to effect the purposes of this minute order.

Submitted and reviewed by:

--- Docu Signed by:

Ordonen Butter DORTCOMBASSMOD

Director, Transportation Planning and Programming Division Recommended by: 0

Executive Director

116052 July 29 2021

Minute	Date
Number	Passed

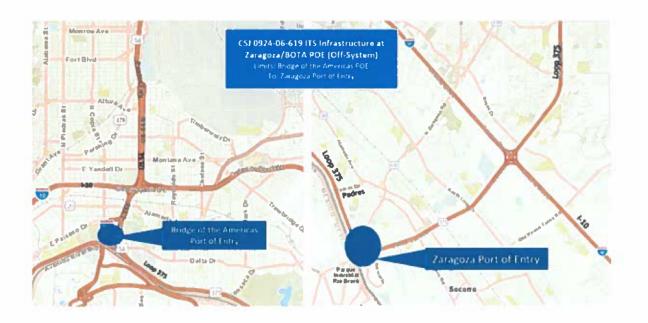
Page 1 of 1

CSJ #:	0924-06-619
District #:	24 EL PASO
Code Chart 64 #:	13400
Project Name:	ITS Infrastructure at Zaragoza and BOTA
	International Ports of Entry

#### ATTACHMENT B LOCAL GOVERNMENT ORDINANCE OR RESOLUTION

CSJ #:	0924-06-619
District #:	24 EL PASO
Code Chart 64 #:	13400
Project Name:	ITS Infrastructure at Zaragoza and BOTA
	International Ports of Entry

### ATTACHMENT C LOCATION MAP SHOWING PROJECT



CSJ #:	0924-06-619
District #:	24 EL PASO
Code Chart 64 #	13400
Project Name:	ITS Infrastructure at Zaragoza and BOTA
	International Ports of Entry

#### ATTACHMENT D PROJECT BUDGET

The Department will pay <u>\$17,904,000</u> from the Texas Mobility Fund to the Local Government for engineering, environmental and construction of the Project. Costs will be allocated based on State funding and Local Government funding until the State funding reaches the maximum obligated amount. The Local Government will then be responsible for <u>100%</u> of the costs.

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Engineering (by Local Government)	\$2,500,000	0%	\$0	0%	\$0	100%	\$\$2,500,000
Environmental (by Local Government)	\$150,000	0%	\$0	0%	\$0	100%	\$150,000
Construction (by Local Government)	\$15,254,000	0%	\$0	0%	\$0	100%	\$15,254,000
Subtotal	\$17,904,000		\$0		\$0	1 7 - 1	\$17,904,000
Environmental Direct State Costs	\$1,000	0%	\$0	0%	\$0	100%	\$1,000
Right of Way Direct State Costs	\$500	0%	\$0	0%	\$0	100%	\$500
Engineering Direct State Costs	\$1,000	0%	\$0	0%	\$0	100%	\$1,000
Utility Direct State Costs	\$500	0%	\$0	0%	\$0	100%	\$500
Construction Direct State Costs	\$2,600	0%	\$0	0%	\$0	100%	\$2600
Indirect State Costs	\$90,400	0%	\$0	0%	\$0	100%	\$90,400
TOTAL	\$18,000,000		\$0		\$0		\$18,000,000



# Intelligent Transportation Systems at POE Advanced Funding Agreement

November 22, 2022





# Background

The scope of work for this Project consists of the design, construction, and installation of Intelligent Transportation Systems (ITS) at the Bridge of the Americas (BOTA) and Zaragoza International Ports of Entry.





# **Intelligent Transportation Systems**







Bridge of the Americas and Ysleta POE
\$32M project: \$14M on-system | <u>\$18M off-system</u>

- On-system project has been awarded
- Pending council approval of AFA
- Concept of Operations developed (interagency coordination)
- Dynamic message signs, improved security measures, wait-time collection devices, traffic detection devices
- In close coordination with BSC stakeholders including TxDOT, CBP, TTI, EPPD and others



# **Benefits of ITS**

💿 🖛 🍈 🖵

CITY OF EL PASO

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EL PASO



EXTENDED HRS COMMERCIAL OPERATIONS

# Improved customer service

Access to real-time traffic conditions via security cameras

Updated wait-time information

CRASH AHEAD WAIT TIME: 30 MIN

# Recommendations

That the City Manager, or designee, is authorized to sign an Advance Funding Agreement by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the design, construction, and installation of Intelligent Transportation Systems (ITS) at the Bridge of the Americas (BOTA) and Zaragoza International Ports of Entry.

Estimated total project cost: \$18,000,000 (off-system)

Funded by the Texas Mobility Fund



# **Mission**

Deliver exceptional services to support a high quality of life and place for our community



Integrity, Respect, Excellence, Accountability, People

# Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government



File #: 22-1509, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts Tax Office, Maria O. Pasillas, (915) 212-1737

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

That the tax refunds listed on the attachment posted with this agenda be approved. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments greater than \$2,500.00. (See Attachment B)

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Maria O. Pasillas, (915) 212-1737

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Goal 6 – Set the Standard for Sound Governance and Fiscal Management

SUBGOAL: 6.11 Provide efficient and effective services to taxpayers

#### 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 tax refunds listed on the attachment posted with this agenda be approved. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments greater than \$2,500.00. (See Attachment A).

#### 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?

Approve property tax overpayment refunds greater than \$2,500.00, per the Texas Property Tax Code, Sec. 31.11 – Refunds of Overpayments or Erroneous Payments.

#### PRIOR COUNCIL ACTION:

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

Council has considered this previously on a routine basis.

#### 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?

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_X\_YES \_\_\_NO

PRIMARY DEPARTMENT: Tax Office SECONDARY DEPARTMENT: N/A

**DEPARTMENT HEAD:** 

millas

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

#### TAX REFUNDS November 22, 2022

- Ana Suffle', in the amount of \$2,651.70 made an overpayment on October 16, 2022 of 2022 taxes. (Geo. # T109-999-0240-7600)
- Shandy Maokhamphiou, in the amount of \$3,931.27 made an overpayment on October 21, 2022 of 2022 taxes. (Geo. #P481-999-0100-1700)

Maria O. Papillas

Maria O. Pasillas, RTA Tax Assessor Collector

Laura D. Prine City Clerk

d.			analleftmarter (1994)	RECEIVED OCT 2 4 2022
Joan		MARIA O. PASILLAS F EL PASO TAX ASSESSO 221 N. KANSAS, STH EL PASO, TX 7990 6 FAX: (915) 212-0107 Ema	E 300 01	
		nanderskanskense de sonskense og sonskense for sonskense for til sonske	Geo No. T109-999-0240-7600	<b>Prop ID</b> 113382
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		+2300	2022 OVERAGE	AMOUNT \$2,651.70

1: CITY OF EL PASO, 3: EL PASO ISD, 6: COUNTY OF EL PASO, 7: EL PASO COMMUNITY COLLEGE, 8: UNIVERSITY MEDICAL CENTER OF EL PASO

#### Dear Taxpayer:

Our records indicate that an overpayment exists on the property tax account listed above as of the date of this letter. If you paid the taxes on this account and believe you are entitled to a refund, please complete the application below, sign it, and return it to our office. If the taxes were paid by your mortgage/title company or any other party, you must obtain a written letter of release in order for the refund to be issued in your name. If you did not make the payment(s) on this account, please forward this letter to the person who paid these taxes. You may also request the transfer of this overpayment to other tax accounts and/or tax years in the space provided or by attaching an additional sheet if necessary. Your application for refund must be submitted within three years from the date of the overpayment, or you waive the right to the refund (Sec. 31.11c). Governing body approval is required for refunds in excess of \$2500.

APPLICATION FOR PROPER	<b>FY TAX REFUND:</b> This application must be completed, signed, and submitted with supporting documentation to be valid.
Step 1. Identify the refund recipient. Show information for whomever will be receiving the refund.	Who should the refund be issued to: Name: Ana Syffle' Address: 1146 N. Clark Dr. City, State, Zip: El Paso, TX 79905 Daytime Phone No.: 915 - 494 - 8344 E-Mail Address: Qna Suffle 180 gmail.
Step 2. Provide payment information. Please attach copy of cancelled check, original receipt, online payment confirmation or bank/credit.card statement. Step 3. Provide reason for this refund. Please list any accounts and/or years that you intended to pay with this overage.	Payment made by:       Check No.       Date Paid       Amount Paid       Co         Credit Card, M 4631411       (0(16/22) \$3651.70       Co       Co       Transaction T.D. 2060556797D00000       10/16/22       \$12651.70         Transaction T.D. 2060556797D00000       10/16/22       \$12651.70       To         Please check one of the following:       ToTAL AMOUNT PAID (sum of the above amounts)       To         Please check one of the following:       I paid this account in error and I am entitled to the refund.       I overnaid this account. Please refund the excess to the address listed in Step 1.       I         I want this payment applied to next year's taxes.       This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below):
Step 4. Sign the form FICE Unsigned Applications cannot be processed	By signing below, I hereby apply for the refund of the above-described taxes and certify that the information I have given on this form is true and correct. (If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, Sec. 37.10.) SIGNATURE OF REQUESTOR (REQUIRED) PRINTED NAME & DATE Ana Li Liu Suff b' 101922 MA Li Liu Suff b' 101922 Approved Denied By: N.H. Date: 10-4-22 Print Date: 10/17/2022

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MARIA O. PASILLAS, RTA CITY OF EL PASO TAX ASSESSOR CO 221 N. KANSAS, STE 300 EL PASO, TX 79901 PH: (915) 212-0106 FAX: (915) 212-0107 Email: taxf	DILLECTOR OCT	= DFFICE EIVED 31 2022
PH: (915) 212-0100 FAX: (915) 212-0107 Email: tax	Geo No.	Prop ID
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	Legal Description of the P 10 PARKWOOD LOT 9 (6695	
SHANDY MAOKHAMPHIOU 2909 PENWOOD DR EL PASO, TX 79935	2909 PENWOOD DR	
+2500-	OWNER: MAOKHAMPHIOU	J SHANDY S

2022 OVERAGE AMOUNT \$3,931.27

1: CITY OF EL PASO, 5: YSLETA ISD, 6: COUNTY OF EL PASO, 7: EL PASO COMMUNITY COLLEGE, 8: UNIVERSITY MEDICAL CENTER OF EL PASO

#### Dear Taxpayer:

Our records indicate that an overpayment exists on the property tax account listed above as of the date of this letter. If you paid the taxes on this account and believe you are entitled to a refund, please complete the application below, sign it, and return it to our office. If the taxes were paid by your mortgage/title company or any other party, you must obtain a written letter of release in order for the refund to be issued in your name. If you did not make the payment(s) on this account, please forward this letter to the person who paid these taxes. You may also request the transfer of this overpayment to other tax accounts and/or tax years in the space provided or by attaching an additional sheet if necessary. Your application for refund must be submitted within three years from the date of the overpayment, or you waive the right to the refund (Sec. 31.11c). Governing body approval is required for refunds in excess of \$2500.

Step 1. Identify the refund	Who should the refund be issued	to:							
recipient.	Name: Shandy Maothamphiou								
Show information for whomever will be receiving	Address: 2909 Penwood Dr.								
he refund.	City, State, Zip: El Paso	, TX 799	35	V					
	Daytime Phone No.: 619 - 4	53-5222	E-Mail Address:	landy. Maokhamphious					
Step 2. Provide payment	Payment made by:	Check No.	Date Paid	Amount Paid					
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sheck, original receipt, online bayment confirmation or bank/credit card statement.			41						
Step 3. Provide reason for	TOTAL AMOUNT PAID (sum of the above amounts) Please check one of the following:								
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		e been applied to other tax a	ccount(s) and/or year(s	), escrow (listed below):					
Step 4. Sign the form. Unsigned applications cannot be processed.	By signing below, I hereby apply have given on this form is true a guilty of a Class A misdemeano	nd correct. ( If you make a f	false statement on this a	application, you could be found					
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EC01062198	01/06/2021	45782217	CC003379241	EC	\$3,996.55	\$3,996 55	PA	P48199901001700	290765	88-RUBEN JAIME
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#### File #: 22-1526, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font. Members of the City Council, Representative Isabel Salcido, (915) 212-0005

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

For notation pursuant to Section 2.92.080 of the City Code, receipt of campaign contributions of five hundred dollars or greater by Representative Isabel Salcido in the amounts of \$1,000.00 by Edward Saab, \$1,038.73 by William Correa, \$5,000.00 by El Paso Association of Contractors and \$750.00 by El Paso Electric Employee Political Action Committee.



File #: 22-1527, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font. Members of the City Council, Representative Claudia L. Rodriguez, (915) 212-0006

#### AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

For notation pursuant to Section 2.92.080 of the City Code, receipt of the following campaign contributions by City Representative Claudia L. Rodriguez, District 6: \$5,000.00 from Woody & Gale Hunt; \$2,000.00 from Bobby Bowling; \$750.00 from El Paso Electric Employee Political Action Committee; \$1,000.00 from Edward Saab; \$100.00 from Joe Quiñones.



#### File #: 22-1491, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Police, Chief Gregory Allen, (915) 212-4305

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* This linkage to Strategic Plan is subsection 2.3 - Expand investment in public safety operations.

Request that the Director of Purchasing & Strategic Sourcing be authorized to issue a Purchase Order to Bazaar Uniforms and Men's Store, LLC, referencing Contract 2019-1053 Police Uniforms (RE-BID). This change order is to increase the contract by \$250,000.00 for a total amount not to exceed \$1,250,000.00. The change order will cover additional expenses for Police Uniforms for the duration of the contract term, August 31, 2024.

Contract Variance: No contract variance

Department:	Police
Award to:	Bazaar Uniforms and Men's Store, LLC
	El Paso, TX
Total Estimated Amount:	\$250,000.00
Account No.:	321-531200-21090-1000
Funding Source:	General Fund
District(s):	All

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: Not Applicable

#### CONTACT PERSON(S) NAME AND PHONE NUMBER:

DISTRICT(S) AFFECTED:	Gregory Allen, Chief of El Paso Police Department (915) 212-4305 Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212- 1218 All
STRATEGIC GOAL:	No. 2 – Set the Standard for a Safe and Secure City
SUBGOAL:	2.3 – Expand investment in public safety operations

#### SUBJECT:

Request that the Director of Purchasing & Strategic Sourcing be authorized to issue a purchase order to Bazar Uniforms and Men's Store, LLC referencing Contract 2019-1053 Police Uniforms (RE-BID). This change order is to increase the contract by \$250,000.00 for a total amount not to exceed \$1,250,000.00. The change order will cover additional expenses for Police Uniforms for the duration of the contract term, August 31, 2024.

#### **BACKGROUND / DISCUSSION:**

The contract modification will allow the EPPD the ability to make additional purchases of police uniforms for existing employees and new graduates based on the needs of the Department.

#### SELECTION SUMMARY:

N/A

#### CONTRACT VARIANCE:

N/A

**<u>PROTEST</u>** No protest received for this requirement.

#### **PRIOR COUNCIL ACTION:**

On August 6, 2019 City Council approved the award of contract 2019-1053 to Bazar Uniforms and Men's Store, LLC for a three (3) year term and two (2) year-option to extend the contract for at total amount of \$1,000,000.00.

#### AMOUNT AND SOURCE OF FUNDING:

Amount: \$250,000.00 Funding Source: General Fund Account: 531200-321-21090-1000

#### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_X\_ YES \_\_\_NO

PRIMARY DEPARTMENT: El Paso Police Department SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

2019-1053 Police Uniforms (RE-BID)

#### 

DEPARTMENT HEAD:

0.1.1 A/C VICTOR ZARUR #1515

For Gregory K. Allen, Chief of Police, El Paso Police Department

#### COUNCIL PROJECT FORM (CHANGE ORDER)

Please place the following item on the <u>CONSENT</u> agenda (**under PURCHASING REQUESTS, ETC**.) for the Council Meeting of <u>NOVEMBER 22, 2022</u>.

#### STRATEGIC GOAL: No 2: Set the Standard for a Safe and Secure City

This linkage to Strategic Plan is subsection 2.3 – Expand investment in public safety operations.

Request that the Director of Purchasing & Strategic Sourcing be authorized to issue a purchase order to Bazar Uniforms and Men's Store, LLC referencing Contract 2019-1053 Police Uniforms (RE-BID). This change order is to increase the contract by \$250,000.00 for a total amount not to exceed \$1,250,000.00. The change order will cover additional expenses for Police Uniforms for the duration of the contract term, August 31, 2024.

Contract Variance: No contract variance

Department:	Police
Award to:	Bazar Uniforms and Men's Store, LLC
	El Paso, TX
Total Estimated Amount:	\$250,000.00
Account No.:	321-531200-21090-1000
Funding Source	General Fund
District(s):	All

This is a Low Bid Catalog, unit price contract.



#### File #: 22-1502, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Streets and Maintenance, Richard J. Bristol, (915) 212-7000

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

The linkage to the Strategic Plan is Subsection 7.2 - Improve Competitiveness Through Infrastructure Improvements Impacting the Quality of Life.

Award Summary:

The award of Solicitation 2023-0158 Uninterrupted Power Supply Equipment Maintenance to Gruber Power Services, for a term of three (3) years for an estimated amount of \$112,560.00. This contract will allow for the maintenance of uninterrupted power supply equipment at various City locations.

Contract Variance: NA

Department:	Streets and Maintenance				
Award to:	Gruber Power Services				
	Phoenix, AZ				
Initial Term:	3 Years				
Annual Estimated Award:	\$37,520.00				
Total Estimated Award:	\$112,560.00 (3 Years)				
Funding Source:	532 - 1000 - 522260 - 31040 - P3120				
District(s):	All				

This is a Non-Competitive, service contract.

The Purchasing & Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Gruber Power Services.

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: Not Applicable

#### CONTACT PERSON(S) NAME AND PHONE NUMBER:

Richard J. Bristol, Streets and Maintenance Director, (915) 212-7000 Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: No. 7 – Enhance and Maintain the City's Infrastructure Network

SUBGOAL: 7.2 – Improve Competitiveness Through Infrastructure Improvements Impacting the Quality of Life

#### SUBJECT:

The award of solicitation 2023-0158 Uninterrupted Power Supply Equipment Maintenance to Gruber Power Services, for a term of three (3) years for an estimated amount of \$112,560.00.

#### **BACKGROUND / DISCUSSION:**

This contract will allow for the maintenance of uninterrupted power supply equipment at various City locations.

#### SELECTION SUMMARY:

As per Section 9.1.8.1 of The Amended and Restated Procurement and Sourcing Policy, "if a contract cannot be awarded after two competitive procurement/selection process, the requirement can be fulfilled by a non-competitive award. Prior solicitations 2022-0583, 2022-0766 and 2023-0019.

CONTRACT VARIANCE:

N/A

PROTEST N/A

N/A

PRIOR COUNCIL ACTION: N/A

#### AMOUNT AND SOURCE OF FUNDING:

Amount: \$112,560.00 Funding Source: Internal Service Fund Account: 532 – 1000 – 522260 – 31040 – P3120

Revised 2/23/2022-V2 - Previous Versions Obsolete

#### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_X\_ YES \_\_\_NO

PRIMARY DEPARTMENT: Streets and Maintenance SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

DEPARTMENT HEAD: 11=14-22 Richard J. Bristol, Streets and Maintenance Director

2023-0158 Uninterrupted Power Supply Equipment Maintenance Revised 2/23/2022-V2 – Previous Versions Obsolete

#### COUNCIL PROJECT FORM (NON-COMPETITIVE)

Please place the following item on the CONSENT agenda for the Council Meeting of November 22, 2022.

#### Strategic Goal 7: Enhance and Sustain El Paso's Infrastructure Network

The linkage to the strategic plan is subsection 7.2 – Improve Competitiveness Through Infrastructure Improvements Impacting the Quality of Life.

#### Award Summary:

The award of solicitation 2023-0158 Uninterrupted Power Supply Equipment Maintenance to Gruber Power Services, for a term of three (3) years for an estimated amount of \$112,560.00. This contract will allow for the maintenance of uninterrupted power supply equipment at various City locations.

#### Contract Variance:

NA

Department:	Streets and Maintenance		
Award To:	Gruber Power Services		
	Phoenix, AZ		
Initial Term:	3 Years		
Annual Estimated Award:	\$37,520.00		
Total Estimated Award:	\$112,560.00 (3 Years)		
Funding Source:	532 - 1000 - 522260 - 31040 - P3120		
District(s):	All		

This is a Non-Competitive, service contract.

The Purchasing & Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Gruber Power Services.



# 2023-0158 Uninterrupted Power Supply Equipment Maintenance

Richard Bristol, Director, Streets and Maintenance November 22, 2022



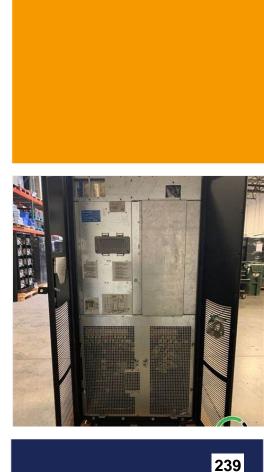




# Strategic Plan Goal:

7: Enhance and Sustain El Paso's Infrastructure Network

7.5: Set one Standard for Infrastructure Across the City







# **Purpose of Procurement**

- The purpose of this procurement is to facilitate the purchase of Uninterrupted Power Supply Equipment Maintenance Services
- UPS systems provide short-term power to a load when the input power source fails
- Maintenance services will be provided to 11 systems located in buildings located throughout the City
- Contract is a non-competitive award as a result of three non-responsive bids







## 2023-0158 Uninterrupted Power Supply Equipment Maintenance

Contractor	Gruber Power Services
Initial Term & Award	\$112,560 – 3 years
Option	N/A
Funding Source	General Fund
Account No.	532-522260-1000-31040-P3120





# **Mission**

Deliver exceptional services to support a high quality of life and place for our community



Integrity, Respect, Excellence, Accountability, People

# Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government





File #: 22-1528, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts Members of the City Council, Representative Peter Svarzbein, (915) 212-1002

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Discussion and action to adopt the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism.

### CITY OF EL PASO, TEXAS AGENDA ITEM AGENDA SUMMARY FORM

DEPARTMENT: Mayor and Council

AGENDA DATE: November 22, 2022

CONTACT PERSON NAME AND PHONE NUMBER: City Representative Peter Svarzbein 915.212.1002

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: (Goal 2.9 -Promote building safety, Goal 2- Set the standards for a safe and secure city, Goal 2.1-Maintain standing as one of the nation's top safest cities.)

#### 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.

Discussion and action to adopt the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism.

#### **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?

In 2021, the Anti-Defamation League (ADL) tabulated 2,717 anti-Semitic incidents in the United States, a 34 percent increase from the 2,026 incidents tabulated in 2020 and the highest number on record since the ADL began tracking anti-Semitic incidents in 1979. according to the latest report released by the Anti-Defamation League, the number of anti-Semitic incidents has increased in the state of Texas in 2021, making Texas one of the top five highest incidence rates in the U.S. by state. There were 112 antisemitism incidents reported in the state of Texas in 2021, 42 incidents were reported in 2020. Statewide hate crimes increased 167 percent from 2020 to 2021. the City Council of El Paso affirms its commitment to the well- being and safety of its Jewish community members and to ensuring Jewish residents and organizations know they are not alone and that the City Council of El Paso is committed to ending the spread of all forms of hate and bigotry.

#### PRIOR COUNCIL ACTION:

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

#### 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?

N/A

#### **RESOLUTION**

**WHEREAS**, the City of El Paso condemns any act of racism and discrimination such as the terrorist attack that occurred on August 3, 2019, at the El Paso Walmart where 23 people were killed and 23 people were injured; and

WHEREAS, the City of El Paso signed a statement by "Mayors United Against Antisemitism", declaring that antisemitism is incompatible with the democratic values of our society; and

**WHEREAS**, the City of El Paso has developed policies and resources that expand the protections and rights of all people by advocating for the fair and humane treatment of immigrants, the LGBTQ+ community, and other minority communities; and

**WHEREAS**, in 2021, the Anti-Defamation League tabulated 2,717 antisemitic incidents in the U.S., which is a 34% increase from the 2,026 incidents tabulated in 2020 and is the highest number on record since 1979 when the ADL began tracking antisemitic incidents; and

**WHEREAS**, according to the latest report released by the Anti-Defamation League, the number of antisemitic incidents increased in the state of Texas in 2021, with Texas having one of the top five highest incidence rates in the U.S. by state; and

**WHEREAS**, there were 42 antisemitic incidents reported in the state of Texas in 2020 and 112 antisemitic incidents reported in 2021 – an increase of 167%; and

WHEREAS, contemporary manifestations of antisemitism may include: calling for, aiding, or justifying the harming of Jews; making dehumanizing, demonizing, or stereotypical allegations about Jews; denying the fact, scope, mechanisms, or intentionality of the genocide of the Jewish people during the Holocaust; accusing Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust; accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations; denying the Jewish people their right to self-determination; applying double standards by requiring of Israel a behavior not expected or demanded of any other democratic nation; using symbols and images associated with classic antisemitism; drawing comparisons of contemporary Israeli policy to that of the Nazis; accusing Jews of being responsible for wrongdoing committed by a single Jewish person or group; or holding Jews collectively responsible for actions of the state of Israel; and

WHEREAS, the City Council of El Paso affirms its commitment to the well-being and safety of its Jewish community members and to ensuring Jewish residents and organizations know they are not alone and that the City Council of El Paso is committed to ending the spread of all forms of hate and bigotry; and

1

WHEREAS, the International Holocaust Remembrance Alliance (IHRA), an international, intergovernmental organization, has established a non-legally binding definition of antisemitism that has been adopted by 37 United Nations member countries, including the U.S., and 320 non-federal government entities, including 22 states within the U.S. and several cities; and

WHEREAS, the IHRA definition of antisemitism serves as an important tool for law enforcement, public officials, and community members to help identify, measure, monitor, and, ultimately, combat antisemitism;

**WHEREAS**, cities such as Los Angeles, California; Austin, Texas; Durham, North Carolina; and New Orleans, Louisiana have adopted similar resolutions combating antisemitism.

#### NOW THEREFORE, BE IT RESOLVED BY THE CITY OF EL PASO:

That the El Paso City Council adopts the non-legally binding IHRA definition of antisemitism, which reads as follows: "Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities."

That the City Manager will familiarize City departments, City staff, elected and appointed officials, and entities contracting with the City, with the IHRA definition of antisemitism.

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2022.

#### **CITY OF EL PASO**

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Roberta Brito Assistant City Attorney

2



File #: 22-1525, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Members of the City Council, Representative Peter Svarzbein, (915) 212-1002

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Discussion and action to recognize Rabbi Stephen Leon for his leadership at Congregation B'nai Zion as well as teaching and providing information to the citizens of El Paso for more than three decades about the descendants of the families expelled during the Spanish Inquisition who now live in our community and are known as the Anusim.

### CITY OF EL PASO, TEXAS AGENDA ITEM AGENDA SUMMARY FORM

DEPARTMENT: Mayor and Council

AGENDA DATE: November 22, 2022

CONTACT PERSON NAME AND PHONE NUMBER: City Representative Peter Svarzbein 915.212.1002

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL:

Goal 4 - Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

#### 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.

Discussion and action to recognize Rabbi Stephen Leon for his leadership at Congregation B'nai Zion as well as teaching and providing information to the citizens of El Paso for more than three decades about the descendants of the families expelled during the Spanish Inquisition who now live in our community and are known as the Anusim.

#### **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?

Rabbi Stephen Leon is the founder and director of the Anusim Center of El Paso which provides musical, cultural, and educational programs for the people of El Paso.

#### PRIOR COUNCIL ACTION:

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

#### 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? N/A

#### **RESOLUTION**

WHEREAS, for many years, Rabbi Stephen Leon has been a leader to the entire community and served the needs of the descendants of the Spanish and Portuguese families expelled during the Inquisition and who are known as crypto-Jews of El Paso, and

WHEREAS, Rabbi Stephen Leon has served with distinction as the Rabbi and Rabbi Emeritus of Congregation B'nai Zion for 36 years, and has been on the faculty of UTEP for 20 years, and

**WHEREAS**, Rabbi Stephen Leon has been teaching classes and providing information to the citizens of El Paso for more than three decades about the descendants of the families expelled during the Spanish Inquisition who now live in our community, and

WHEREAS, for the past decade, Rabbi Stephen Leon has served as the founder and director of the Anusim Center of El Paso which provides musical, cultural, and educational programs for the people of El Paso, and

**WHEREAS**, Rabbi Stephen Leon has been the counselor, mentor, and advisor to hundreds of citizens of El Paso who are researching their historic connection to their crypto-Jewish ancestors from the Spanish Inquisition, and

WHEREAS, Rabbi Stephen Leon has brought to the attention of people in many countries the welcoming nature and support of the citizens of El Paso in regard to their hospitality toward the crypto-Jews in our community.

## NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City of El Paso proudly honors and recognizes the significant contributions of Rabbi Stephen Leon throughout many decades of service to our community, and November 22, 2022 shall be known as, "RABBI STEPHEN LEON DAY".

(Signatures on the following page)

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_\_ 2022.

### **CITY OF EL PASO:**

Oscar Leeser Mayor

**ATTEST:** 

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Carlos L. Armendariz Assistant City Attorney



File #: 22-1529, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts Members of the City Council, Representative Henry Rivera, (915) 212-0007

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Discussion and action on a Resolution that the City of El Paso honors and recognizes the late War Captain Javier Loera for his leadership and passion and sends its condolences to the Ysleta del Sur Pueblo for the loss of War Captain Javier Loera.

#### CITY OF EL PASO, TEXAS AGENDA ITEM AGENDA SUMMARY FORM

#### **DEPARTMENT:** Mayor and Council

AGENDA DATE: Tuesday, November 22, 2022

#### CONTACT PERSON NAME AND PHONE NUMBER:

City Representative Henry Rivera, District 7-915.212.0007

#### **DISTRICT(S) AFFECTED:** All Districts

#### STRATEGIC GOAL:

Goal 4 - Enhance El Paso's Quality of Life Through Recreational, Cultural & Educational Environments

#### 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.

Discussion and action on a resolution that the City of El Paso honors and recognizes the late War Captain Javier Loera for his leadership and passion and sends its condolences to the Ysleta del Sur Pueblo for the loss of War Captain Javier Loera.

#### **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? N/A

#### PRIOR COUNCIL ACTION:

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

#### 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? N/A

#### RESOLUTION

**WHEREAS**, Ysleta del Sur Pueblo's War Captain, Javier Loera, peacefully passed away on Monday, November 7, 2022; and

WHEREAS, his parents Tomas Loera Sr. and Belen Chavez will receive him with praise and honor; and

WHEREAS, he is survived by his brothers Arturo Loera, Tomas Loera, Jr., Sergio Loera Sr., and Richard Loera; and

**WHEREAS**, before becoming the War Captain, Javier Loera served in the Traditional Council as a Traditional Captain; and

**WHEREAS**, the War Captain position is said to be the second-highest spiritual leadership position in the Pueblo and is meant to ensure the spiritual well-being of the Pueblo, and as a lifetime position, it is also a position for a guardian of the Tribe, and War Captain Loera served the Ysleta del Sur Pueblo in this position for over 12 years; and

WHEREAS, War Captain Loera's Tigua ancestral line is Olguin, well known as Tigua land and tribal protectors, with his grandmother Rosa Holguin Loera, being a descendant of Bernardo Olguin, who served as a Chief from 1870 through 1880, and with Simon, Bernardo, and other Olguin family members having served in the U.S. Calvary as Tigua Scouts; and

WHEREAS, War Captain Loera was also affectionately known as "Heavy"; and

**WHEREAS,** War Captain Loera was a distinguished yet humble and inspiring leader, having helped shape the Ysleta del Sur Pueblo through his dedication to tradition, strength, and teachings and especially having encouraged the Tigua people to appreciate the Pueblo core values and way of life; and

**WHEREAS,** War Captain Loera also served as the Tribal Preservation Officer, through which he oversaw the preservation, protection, curation, and management of ancestral sacred objects, properties, cultural places, historical documents, the Pueblo's water rights, traditional tribal lands, and the reintroduction of traditional farming; and

**WHEREAS**, as a War Captain and a tribal leader, he aspired to improve the quality of life for all Tiguas, to create a positive and empowering tribal environment, and to protect and preserve tribal lands for the next generations, and he also led the struggle to safeguard the Pueblo's sovereignty; and

**WHEREAS,** War Captain Loera had a keen interest in preserving the language and oral traditions of the Tiguas, and through his extensive knowledge of the history of the Ysleta del Sur Pueblo, native peoples, and oral stories, in addition to his talents in art, beadwork, painting, and the crafting of pottery and poetry; and

WHEREAS, War Captain Loera represented the Tigua community's spirit and embodied the ancestors' love and respect; and

**WHEREAS**, the Ysleta del Sur Pueblo is forever grateful for his leadership and passion and will honor his memory for eternity.

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

- 1. That the City of El Paso honors and recognizes the late War Captain Javier Loera for his leadership and passion; and
- 2. That the City of El Paso sends its condolences to the Ysleta del Sur Pueblo for the loss of War Captain Javier Loera.

**APPROVED** on this \_\_\_\_\_\_ day of \_\_\_\_\_\_ 2022.

THE CITY OF EL PASO:

Oscar Leeser Mayor

#### ATTEST:

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

agnosio Tencoso

Ignacio R. Troncoso Assistant City Attorney



Legislation Text

File #: 22-1511, Version: 1

#### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts City Manager's Office, K. Nicole Cote, (915) 212-1092

AGENDA LANGUAGE: This is the language that will be posted to the agenda. Please use ARIAL 11 Font. Budget Update.

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

#### AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: N/A

#### CONTACT PERSON NAME AND PHONE NUMBER:

K. Nicole Cote, Interim Managing Director, City Manager's Office (915) 212-1092

**DISTRICT(S) AFFECTED:** All Districts

STRATEGIC GOAL: 6. Set the Standard for Sound Governance and Fiscal Management

SUBGOAL: N/A

**SUBJECT:** Budget Update

#### **BACKGROUND / DISCUSSION:**

Budget Update

PRIOR COUNCIL ACTION: N/A

AMOUNT AND SOURCE OF FUNDING: N/A

#### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

**PRIMARY DEPARTMENT:** City Manager's Office - Office of Management and Budget **SECONDARY DEPARTMENT:** All City

DEPARTMENT HEAD:

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)



# **Budget Update**

November 22, 2022



## <u>AGENDA</u>

- Budget Overview
- Primary Cost Driver and Revenue
- Recent Revenue Impacts
- Recent Recognitions



## **Budget Overview**



- Overall City Budget includes seven different fund types
- <u>General Fund</u> is the primary operating fund and accounts for only <u>44%</u> of the overall Budget
- Other funds accounting for the remaining 56% of the budget include: business-type activities (airport, mass transit, etc), revenue restricted for specific purposes, federal grants, capital projects, and internal services functions (ex. health fund, fleet management)



# FY 2023 All Funds Budget \$1.2B





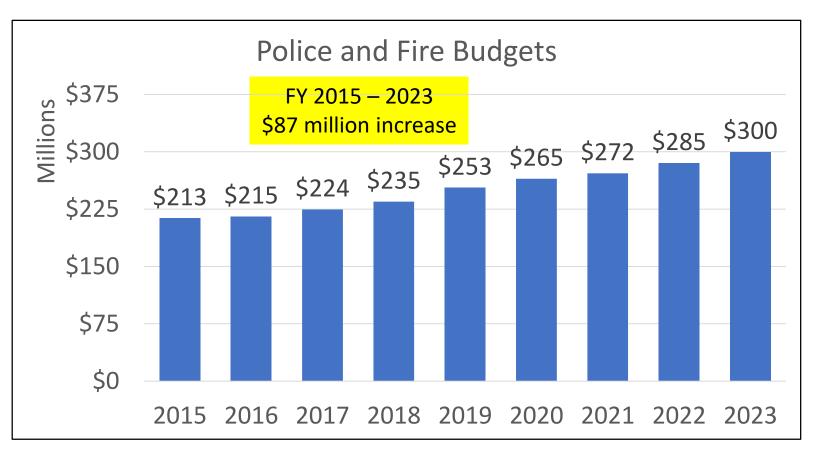
## FY 2023 General Fund







# **Primary Operating Cost Drivers**

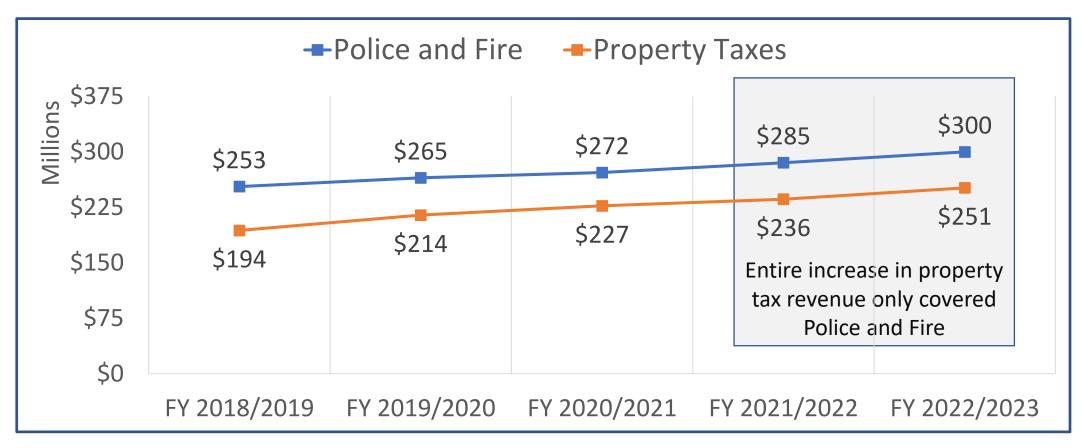


- Since FY 2015
  - Police and Fire increases are equivalent to 23.5 cents on the tax rate
  - Actual operating tax rate has only increased by 13 cents



## FY 2023 General Fund

## **Primary Cost Driver and Revenue Source**









### **City of El Paso**





 $\mathbf{C}$ 



## **Recent Revenue Impacts**





## **Providing Tax Relief** Property Tax Exemptions (Discounts)



- Seniors discount on property taxes
  - \$18.2 million in savings annually for over 53,000 seniors and disabled
  - Exemption (discount) has increased by 42% since 2016, from \$30,000 up to \$42,500
- \$12.8 million in savings for over 21,000 disabled veterans and spouses
- \$5.4 million in savings for 131,000 homesteads



## **Recent Impacts From State Actions**



- \$6 million negative impact
  - \$3.0 million annually used for median maintenance on State-controlled roads
  - \$2.5 million lost annually since 2019 due to state legislation related to telecommunication franchise fees
  - \$500K lost annually for Red Light Camera program due to state legislation
- 1.5 cent impact on tax rate



## **Recent Impacts – Federal Gov't**



- \$2.8 million annually from Bridge revenue dedicated to P3 with Customs & Border Protection (overtime costs)
  - 7/10<sup>th</sup> of a cent impact on the tax rate
- City financing immigration crisis \$7.28 million pending to be reimbursed
- Impact on tax rate



## **Examples of Revenue not Collected by the City**



- Transfers to help offset General Fund and help property tax rate
  - City owned utilities for ex. San Antonio receives \$392 million and Austin receives \$150 million
- Transportation User or Street Maintenance Fees
  - City of Austin \$125 million for mobility and transportation (street maintenance)
- Sales tax collection on residential gas and electricity
  - 774 Texas cities currently impose the tax, El Paso does not





## **Recent National Recognitions**





## The top 15 under-the-radar cities to live in Texas (2023)



Border cities provide excellent value: Contrary to many of the popular fears about border towns, some of Texas' best cities in terms of home value and quality of life are just across the border from Mexico.

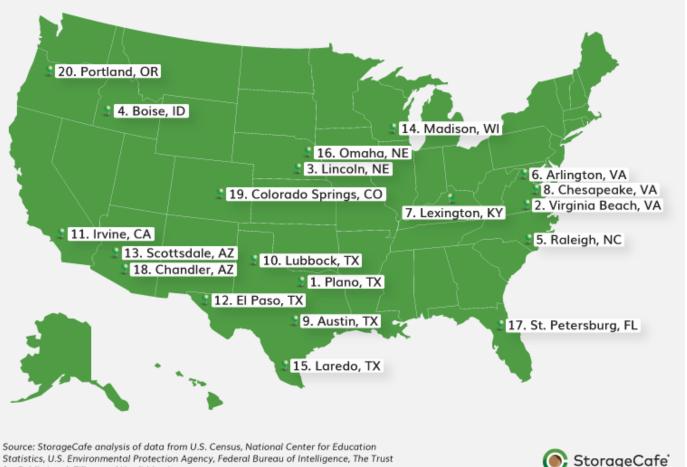
Source: The Top 15 Under-the-Radar Cities in Texas: Report (2023) - Orchard



## **Best Cities For Families With Children**



The 20 Best U.S. Cities for Families With Children



**El Paso** - ranked high for safety, **registering the 6<sup>th</sup>-lowest** crime rate, and has excellent public schools. One of the biggest draws for any family is the city's affordability, with home prices hovering around \$200K, on average. Moreover, El Paso registers the <u>5<sup>th</sup>-lowest rent</u> in our ranking, with renters paying around \$980/month. Living here means you also pay less for food, and El Paso boasts the **5th-lowest** cost of groceries among the big cities.



for Public Land, Zillow and Yardi Matrix.



## Mission

Deliver exceptional services to support a high quality of life and place for our community

## Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government

## ☆ Values

Integrity, Respect, Excellence, Accountability, People



Legislation Text

File #: 22-1429, Version: 1

#### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts Streets and Maintenance, Olivia Montalvo-Patrick, (915) 212-1875

AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Presentation and discussion on the Neighborhood Traffic Management Program (NTMP). [POSTPONED FROM 11-08-2022]

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

#### AGENDA DATE: 11/08/22 PUBLIC HEARING DATE:

#### CONTACT PERSON(S) NAME AND PHONE NUMBER: Olivia Montalvo-Patrick, (915) 212-1875

DISTRICT(S) AFFECTED: All

**STRATEGIC GOAL:** 7 - Enhance and Sustain El Paso's Infrastructure Network

SUBGOAL: 7.5 – Set one standard for infrastructure across the city

#### 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.

Presentation and discussion on the Neighborhood Traffic Management Program (NTMP).

#### **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?

On April 12, 2022, City Council approved to revise qualification criteria and program improvements for the NTMP. The purpose of this presentation is to provide an update on the NTMP project list, revised document materials and next steps.

#### **PRIOR COUNCIL ACTION:**

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

Approved revised NTMP criteria, April 12, 2022 Approved revised NTMP criteria September 17, 2018 Adopted NTMP, March 25, 2008

#### 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?

N/A

#### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?

**PRIMARY DEPARTMENT:** Streets and Maintenance **SECONDARY DEPARTMENT:** N/A

DEPARTMENT HEAD: Richard Bristol Richard Bristol

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)



### Management Update FY2020-2023

### Neighborhood Traffic Management Program (NTMP)

Streets and Maintenance Department Engineering and Traffic Management

City Council Presentation – November 8, 2022

SPEED HUMP

### Purpose Neighborhood Traffic Management Program (NTMP)

- Formal application and review process for traffic calming measures initiated by residents
- To address safety concerns caused by vehicle traffic behavior in residential neighborhoods

#### VISION BLOCK = SAFE + BEAUTIFUL NEIGHBORHOODS

Strategic Goal #7: Enhance and sustain El Paso's infrastructure network
7.5: Set one standard for infrastructure across the city
Strategic Goal #2: Set the standard for a safe and secure city
2.4: Improve motorist safety and traffic management solutions



## **Previous Council Actions**

### March 25, 2008

Adopted Neighborhood Traffic Management Program (NTMP)

### August 17, 2010

Approved addition traffic calming placement guidelines and removal process

### July 10, 2018

Accepted staff recommendations to revise NTMP

### September 17, 2018

Approved revised NTMP Guidebook

### April 12, 2022

Approved revised NTMP criteria



## **Alignment and Integration**



280

	Investment	Impact	Output			
	NTMP Funding 2013 - Present	210 Total Eligible NTMP Projects 2008 - 2022	<b>168</b> Total NTMP Projects Installed 2008 - 2022			
FY13-FY19	\$5M 2012 Street Infrastructure Capital Plan	Northwest Central 21% 13%	2008-2017 29 60 29			
FY20-FY23	\$950K General Funds	Northeast 9% Mission	2018-2022     46     4       0     20     40     60     80     100     120     140			
	ling focus shifted from capital ects to small-scale improvements	Valley East 12% 45%	<ul> <li>Signs/Markings (Non-Physical)</li> <li>Speed Cushions (Tier 1)</li> <li>Capital Project (Tier 2)</li> </ul>			

Now annual General Fund allocations



### **Pre-Qualifications**

- 1) Paved street within City Limits
- 2) Residential Local or Collector street classification
- 3) One travel lane of traffic in each direction
- 4) Speed limit between 20-35 MPH
- 5) Street must be composed primarily of single-family housing or duplexes

### **Submit Application**

Includes Petition – <u>51%</u> residential household support from subject street

- Single family housing or duplex with front or side of property abutting the requested street
- One signature per household
- Staff may revise subject street limits and request additional signatures, if needed

**23%** increase of eligible applications

FY22 – **48%** increase for NTMP traffic studies

### **Criteria Per Traffic Study**

- **1) Traffic Volume** 500 to 7,500 vehicles per day
- 2) Traffic Speed <u>10%</u> of traffic volume traveling 5 MPH or more over the speed limit (90<sup>th</sup> percentile)

Ineligible Application:

- Request re-study after 12 months
- New application with petition required after 3 years

**16%** increase of eligible applications



- New Criteria Applied to applications under review from 2020-current
  - 31 Eligible
  - 28 Ineligible
  - 33 Pending traffic studies
- Installation Issued all remaining work orders for 2018-2019 eligible NTMP projects
  - 17 Complete
  - 7 In progress/On hold (Operations assisting ESD)
- Updating NTMP Materials Application, Policy and Procedure Guide, and Standard Operating Procedure
  - Met internal audit objectives (June 2022)









## FY2022 Installation:

NTMP Active Project List (FY2018-2019 Eligible Applications)

#	District	STREET	Limit From	Limit To	Status	# [	District	STREET	Limit From	Limit To	Status
1	3	ALBUM	Yarbrough	Escarpa	Installed FY2022	13	1	CINCINNATI	Piedmont	Park	
2	6	BUENA PARK	Cathedral Circle	Padres		14	3	DARLINA	Hawkins	Viscount	To be scheduled
3	5	TIERRA SONORA	Tierra Mission	Tierra Mina		15	1	TARASCAS	Belvidere	Westwind	In progress/On hold
4	1	THUNDERBIRD	Los Cerritos	Singing Hills/Twin Hills		16	6	BOB MITCHELL	Robert Wynn	George Dieter	
5	1	HEMPSTEAD	Amsterdam	San Marino		17	5	TIERRA SERENA	Pebble Hills	Tierra Robles	
6	7	LAKEWOOD	Vista De Oro	Vista Lomas		18	6	ROSE BUD	Amber Morgan	Thunder Bolt	
7	3	LIMERICK	Shamrock	Edgemere		19	2	SACRAMENTO	Copia	Dyer	
8	4	BABE RUTH	Colin Powell	Mickey Mantle		20	8	TOBIN	Alameda	Dunne	
9	7	ARNOLD PALMER	Montwood	Trawood		21	2	MOUNT DELANO	Hondo Pass	Blue Ridge	
10	5	EDWARD JAMES	Lee	Saul Kleinfeld		22	4	STAHALA	Diana	Rutherford	
11	1	BANDOLERO	Los Robles	Los Cerritos		23	3	EDITH	Little Flower	Sparrow	
12	1	PINEHURST	Bandolero	Thunderbird		24	5	PENDLETON	Edgemere	Turner	

**Note:** In April 2022, process improvement implemented to removed additional consensus from property owners. Public notices for #14-24 were sent during April - May for speed cushion installations in public right-of-way – received one objection.



- Notification Applicants updated on NTMP application status (Aug 2022)
- Pending Installation Public outreach schedule to be revised due to project delays with Operations' priority reassignments with ESD
  - Will send updated notice once staff reviews backlog and project projections
  - NTMP Project List to carry over into FY24
  - New eligible applications are tentative for FY25

#### Neighborhood Traffic Management Program (NTMP) - New Installation Project List

- Project Prioritization Streets are addressed in order of submittal of a complete application and as they qualified for the program.
- Project Installation Improvement are based on available funds, inventory, staffing and scheduling with other citywide maintenance projects. (Subject to modification in order to accommodate any unforeseen conditions or events.)

#	Street	Limits From	Limits To	Application Received	Tentative Public Notice (Not Installation)
1	Deby Lewis	McRae	Montwood	4/18/2016	Fall 2022
2	Bird Ave	Riverbend	300 Bird Ave (canal)	4/14/2017	Fall 2022
3	Saint Romeo	Saint Paul	Bob Hope	7/25/2018	Fall 2022
4	Tierra Venado	Tierra Fiji	Tierra Yamila	7/1/2019	Fall 2022
5	Orkney	Edgemere	Wedgewood / Renfrew	8/21/2019	Fall 2022
6	Howze	Trowbridge	Post	9/16/2019	Fall 2022
7	Roseway	New Haven / Hughes	New Haven / Wells	12/21/2019	Fall 2022
8	Wells	New Haven	Pendale	6/17/2020	Winter 2023
9	Pendale	N. Loop	Wells	6/17/2020	Winter 2023
10	Jackson	Alabama	Peidras	8/31/2020	Winter 2023
11	Wild Willow	Lazy Willow	Rosinante	2/8/2021	Winter 2023
12	Riverside	Alameda	Knights	2/8/2021	Winter 2023
13	Cincinnati	N. Ochoa	Anne Way	2/15/2021	Winter 2023
14	Placeholder for app	lication pending Legal revie	W	4/9/2021	Winter 2023
15	Honolulu	Montwood	Wedgewood	4/16/2021	Spring 2023
16	Singing Hills	800 Singing Hills	1045 Singing Hills	5/24/2021	Spring 2023
17	East Glen	Montana	Cardigan	6/2/2021	Spring 2023
18	Robert Wynn	Montwood	Trawood	6/2/2021	Spring 2023
19	Jefferson Ave	N. Raynor	Justus	6/7/2021	Spring 2023
20	Edgar Park	Magnetic	Polaris	6/23/2021	Spring 2023
21	McAuliffe	Dean Jones	Firehouse	6/24/2021	Spring 2023
22	Sombre Fuerte	Sombrita Way	Sombre Del Sol	6/24/2021	Summer 2023
23	Eloice	Transmountain	Annette	8/11/2021	Summer 2023
24	Mermaid	Anise	Montwood	9/16/2021	Summer 2023
25	Blackhawk	Ponderosa	Palomino	9/23/2021	Summer 2023
26	Nations	Lackland	Dyer	10/13/2021	Summer 2023
27	Brays Landing	Black Mesa	Land Rush	10/26/2021	Summer 2023
28	Bessemer	Vista Del Sol	Dale Douglas	1/8/2022	Summer 2023
29	Bluff Canyon	600 Bluff Canyon	648 Bluff Canyon	2/7/2022	Fall 2023
30	Lake Omega	East Glen	Robert Wynn	3/23/2022	Fall 2023
31	Paseo Azul	Paseo Grande	Fito Hernandez	3/24/2022	Fall 2023
32	Leroy Bonse	Bob Mitchell	Bunky Henry	3/30/2022	Fall 2023

#### Tentative **FY23**

#### Tentative **FY24**



- Launch Online New NTMP application form and updated NTMP Policies and Procedures Guide
- Explore Continuing Solutions Further examine bottle necks in process (ex: backlog in traffic studies and installation)
- Staffing Continue to fill in vacancies from promotions and turnover
  - Currently 1.25 NTMP staff
  - 40% Operations vacancies

	Overview – NTMP Request Process
1 Apply	<ul> <li>Submit complete application</li> <li>Minimum of 51% petition of support from residential households on subject street</li> <li>NTMP application available online: www.elpasotexas.gov/streets-and-maintenance/transportation-management</li> </ul>
2 Review	<ul> <li>Requested street meets pre-qualifications:</li> <li>Paved street within City limits</li> <li>20-35 MPH speed limit</li> <li>One travel lane of traffic in each direction</li> <li>Primarily composed of residential housing (single-family or duplex)</li> <li>Local or Collector street (Arterial roadways are not eligible to apply)</li> <li>Meets petition requirement</li> <li>Application retuned if additional petition signatures are required</li> </ul>
Traffic Study	<ul> <li>Measures traffic volume and speeding trends</li> <li>Typically conducted on a week day during the school year</li> </ul>
4 Eligibility Notification	<ul> <li>Traffic study findings <u>must meet both</u> criteria:</li> <li>Traffic Volume – Must be 500 to 7,500 vehicles</li> <li>Traffic Speed – 10% of traffic volume must be 5 MPH or more over the speed limit</li> <li>Applicant receives notification of application status – If eligible continue to Step 5</li> </ul>
5 Funds and Design	<ul> <li>Improvements contingent on available program funds</li> <li>Projects prioritized by order application was received and qualified for program</li> <li>City determines traffic calming installations within public right-of-way</li> </ul>
6 Public Notification	Mail notification of upcoming traffic calming improvements to residential properties within project limits
7 A Installation	<ul> <li>Typically installed in phases:</li> <li>Roadway preparation</li> <li>Sign installs</li> <li>Speed cushion installs</li> </ul>
8 After-Study / Maintenance	<ul> <li>Evaluate effectiveness of installed traffic calming devices</li> <li>Submit on-going maintenance through the City's 3-1-1 hotline</li> </ul>

### VISION

### MISSION

Deliver exceptional services to support a high quality of life and place for our community Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government



Integrity, Respect, Excellence, Accountability, People



Legislation Text

#### File #: 22-1513, Version: 1

#### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

**District 1** Capital Improvement Department, Joaquin Rodriguez, (915) 212-0065

#### AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action on coordination regarding Frontera Road congestion.

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

AGENDA DATE:	November 22, 2022
PUBLIC HEARING DATE:	N/A
CONTACT PERSON(S) NAME AND PHONE NUMBER:	Joaquin Rodriguez, AICP, 212-0065
DISTRICT(S) AFFECTED:	ALL
STRATEGIC GOAL:	No.7: Enhance and Sustain El Paso's Infrastructure Network
SUBGOAL:	N/A

#### SUBJECT:

Presentation and discussion on coordination regarding Frontera Road congestion.

#### **BACKGROUND / DISCUSSION:**

This presentation will provide an update on council direction regarding traffic and congestion on Frontera Rd as a result of future development.

#### PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING: N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? <u>X</u> YES <u>NO</u>

PRIMARY DEPARTMENT: CID Planning SECONDARY DEPARTMENT: SAM

#### 

**DEPARTMENT HEAD:** 

Chvette Hernandez

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)



### Sun River Estates Subdivision Additional Traffic Options, Feasibility, & Costs

Nov 22, 2022





### **Council Direction**

### • Letter to City of Sunland Park

- Mayor Javier Perea
- Mario Juarez Infante, Interim City Manager
- Fernando R. Macias, County Manager Dona Ana County
- Developer Roberto Talamas Frontera RR Ranch, LLC

### Cost estimates for closure alternatives

- Closure of Gary, La Hacienda and Boy Scout at state line
- Diagonal Diverter at Frontera & La Adelita



### **Traffic Study**

- \$60,000
- Current and future traffic volumes
- Identification and impact of potential interventions
- Multi-Modal analysis
- Emergency response times and access
- Level of service
- Neighborhood level



### **Emergency Access Gates**

- \$130,000
- All TX-NM Border Crossings
  - Gary
  - Boy Scout
  - La Hacienda
- Maintains access for emergency vehicles.
- Continued sidewalks with rolled curbs at cul-de-sacs.





### **Diagonal Diverter @ Frontera & La Adelita**

- \$74,250 \$264,000
- Maintain pedestrian and emergency access
- Wide range of finish levels





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### **Total Estimated Cost**

- \$200,000 \$650,000
- Wide range of cost, low end can be very basic, high end is high tech, landscaped, etc.
- Engage Emergency responders to identify preferred solutions to maintain access
- Engage residents for feedback on design of final improvements.





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### **Next Steps**

- Identify funding for future improvements.
  - Request cost sharing from City of Sunland Park
- Engage consultant for updated traffic study.
  - Specific to closure and proposed development
- Site Surveying to identify state line on site.
- Work with MPO on larger study area.



Legislation Text

File #: 22-1496, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts Animal Services Department, Terry Kebschull, (915) 212-8742

AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* **Presentation and discussion on El Paso Animal Services Best Practices.** 

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

### AGENDA DATE: PUBLIC HEARING DATE:

### CONTACT PERSON(S) NAME AND PHONE NUMBER:

### **DISTRICT(S) AFFECTED:**

### STRATEGIC GOAL:

#### SUBGOAL:

#### 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.

#### **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?

#### **PRIOR COUNCIL ACTION:**

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

#### 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?

### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_\_\_\_ YES NO

PRIMARY DEPARTMENT: SECONDARY DEPARTMENT:

DEPARTMENT HEAD: Zong K Keboohul

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)



### **Shelter Reform Best Practices**

Goal 8: Nurture and Promote a Healthy, Sustainable Community



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### Agenda

- Prior to Lifesaving Plan
- Animal Services Reform Best Practices
- Best Practice Comparison
- Progress



## The Plan Prior to Lifesaving

- Three/six days before euthanasia
- No Foster Program
- No Volunteer Program
- "Round'em Up" mentality
- No proactive services
- Adopted pets risk of disease
- Pets did not receive basic treatment

# **Prior to Lifesaving Plan**





Community and City Begin Efforts to Make Positive Change

### ONE DAY FLASH SALE Sale: 2 Years for \$22 News Sports Business Opinion Entertainment Photos / Video: Obituaries E-Edition Legals Robert Melson: Time to act on El Paso's pet euthanasia secret

Robert Melson ElPaso Published 4:56 p.m. MT July 14, 2015

View Comments 😝 🎽 🎽

El Paso has a secret that's rarely spoken of and, despite previous trumpeting from city government, continues to fester.

The secret is that between 25,000 and 30,000 healthy, adoptable pets will be put to death at the city animal shelter this year, just as similar numbers were destroyed last year and in the years before that and will be into the foreseeable future unless something is done.

That something will require the active involvement of city government, the county, and outlying communities.

It demands action by the animal welfare organizations, the business and professional communities, civic and service organizations, the faith-based community and individual citizens.

Twice before, in 1999 and 2004, the city declared its intention to become a "nokill" city within five years of the declaration. And twice before the brave new beginning failed.



# **2016 Life Saving Begins**

5

A comprehensive reform plan consisting of proven best practices presented and approved by council January.

# Goal: 90% Live Release

Alley Cat Allies Dr. Michiel Noe Huckleberry Hound Animal Rescue El Paso Animal Rescue League Services Employees Humane Society of El • Animal Shelter El Paso Citizens for Paso **Advisory Committee** Shelter Reform Maricopa County • El Paso County Sheriff Austin Pets Alive! Animal Care & Control Ben's Pet Food Pantry • El Paso Pug Rescue • No Kill Advocacy City of Austin Animal • El Paso Veterinary Center Medical Association Pet Guardian Angel Center • City of Fort Worth **Enchanted Pass** Welfare Association Code Compliance Pets Alive El Paso Animal Rescue, Inc. • City of Irving Animal From the Heart Sun City Cats **Care Campus** Rescue **Target Zero** City of Waco Golden Retriever Tommy Gonzalez, City County of San Diego Rescue of El Paso Manager Dames for Dogs Great Dane Rescue of • Yavapai Humane DFW Humane Society El Paso Society



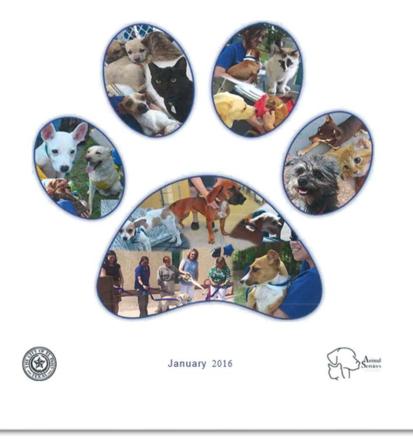


### **11 Best Practices**

- 1. Community Cat/Feral Cat TNR Program
- 2. High Volume, Low-Cost, or No-Cost Spay/Neuter
- 3. Rescue Groups
- 4. Foster Care
- 5. Comprehensive Pet Adoptions
- 6. Pet Retention
- 7. Medical and Behavior Rehabilitation
- 8. Public Relations/Community Involvement
- 9. Volunteers
- **10.Proactive Redemptions**
- 11.Dynamic Leadership



### **Shelter Review Report**





EPAS Budget

Along with the reform comes a budget to support added lifesaving programs. \$4.54 M



\$8.56 M



2017 Post-Shelter Reform





# GOAL 8: Nurture and Promote a Healthy, Sustainable Community EPAS Strategic Plan 2017

Goal 1: Reduce the number of pets entering Animal Services
Goal 2: Provide Healthier Pets
Goal 3: Provide safe, comfortable living conditions for pets in our care and the community

Goal 4: Increase positive outcomes for pets in our community
Goal 5: Increase Social Awareness of animal welfare in our community
Goal 6: Provide a safe environment for employees and opportunities for professional development









### **Elements of HASS**



- 1. Intake-To-Placement
- 2. Remote Customer Service
- 3. Community Partnerships
- 4. The Foster-Centric Model
- 5. Supported Self-Rehoming
- 6. Pet Support Services
- 7. Role of the Facility
- 8. Field Services and Public Safety
- 9. Volunteer Integration
- **10.Lost Pet Reunification**
- 11.Case Management





### 2016 EPAS Shelter Reform

- 1. Community Cat/Feral Cat TNR Program
- 2. High Volume, Low-Cost, or No-Cost Spay/Neuter
- 3. Rescue Groups
- 4. Foster Care
- 5. Comprehensive Pet Adoptions
- 6. Pet Retention
- 7. Medical and Behavior Rehabilitation
- 8. Public Relations/Community Involvement
- 9. Volunteers
- **10.Proactive Redemptions**
- 11.Dynamic Leadership

### 2020 Elements of HASS

- 1. Intake-To-Placement
- 2. Remote Customer Service
- 3. Community Partnerships\*
- 4. The Foster-Centric Model\*
- 5. Supported Self-Rehoming\*
- 6. Pet Support Services\*
- 7. Role of the Facility\*
- 8. Field Services and Public Safety\*
- 9. Volunteer Integration\*
- 10.Lost Pet Reunification\*
- 11.Case Management\*
- \*EPAS Best Practices Equivalent



# Progress

- Growing Foster Program
- Rescue/Transport Program
- Community, National & International partners
- Diverse adoption program
- More than \$1 million in grants
- Created national best practices
- Significantly reduced euthanasia







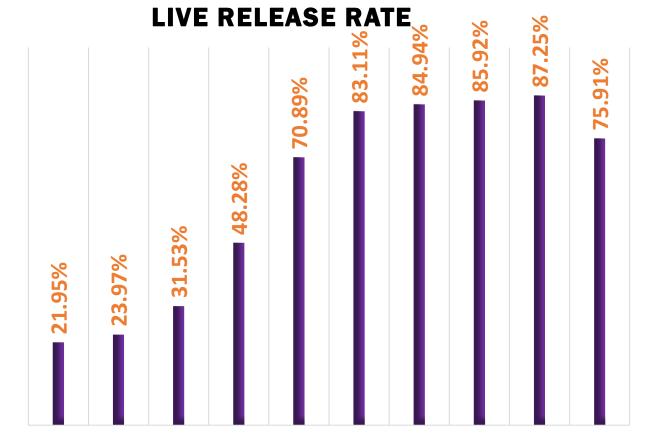






# 109,000+ Lives SAVED!





FY13 FY14 FY15 FY16 FY17 FY18 FY19 FY20 FY21 FY22







### **Thank You**





### Mission

Deliver exceptional services to support a high quality of life and place for our community

### Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government

### ☆ Values

Integrity, Respect, Excellence, Accountability, People





Brindar servicios excepcionales para respaldar una vida y un lugar de alta calidad para nuestra comunidad

### 🖾 Visión

Desarrollar una economía regional vibrante, vecindarios seguros y hermosos y oportunidades recreativas, culturales y educativas excepcionales impulsadas por un gobierno de alto desempeño

### ☆ Valores

Integridad, Respeto, Excelencia, Responsabilidad, Personas



Legislation Text

### File #: 22-1507, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### All Districts

Police, Assistant Chief Peter Pacillas, (915) 212-4302

#### AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance amending Title 13 (Streets, Sidewalks and Public Places), Chapter 13.34 (Picketing), Section 13.34.020 (Notice of Intent to Picket) to add exceptions and spontaneous events; Chapter 13.34 (Picketing), Section 13.34.030 (Receipt of Notification) to delete and reserve; Chapter 13.34 (Picketing), Section 13.34.050 (Violation) to delete and reserve; Chapter 13.36 (Parades and Public Assemblies) to amend chapter title to 'Parades;' Chapter 13.36 (Parades and Public Assemblies), Section 13.36.010 (Definitions) to delete 'Demonstration' and 'Public Assembly' from definitions; Chapter 13.36 (Parades and Public Assemblies), Section 13.36.020 (Permit Required) to add spontaneous event exception; Chapter 13.36 (Parades and Public Assemblies), Section 13.36.100 (Violation - Penalty) to remove the term 'Public Assembly from violations; Chapter 13.38 (Special Events), Section 13.38.020 (Definitions) to remove Picketing, Demonstrating, Parades, and Public Assembly from the definition of 'Special Events;' the penalty as provided in Section 13.36.100 and 13.38.110 of the City Code.

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

AGENDA DATE: 11/22/22

PUBLIC HEARING DATE: 12/06/22

CONTACT PERSON(S) NAME AND PHONE NUMBER: Assistant Chief Peter Pacillas, 915-212-4302

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 2-Set the Standard for a Safe and Secure City

SUBGOAL: 2.1-Maintain standing as one of the nation's top safest cities.

#### SUBJECT:

An Ordinance amending Title 13 (Streets, Sidewalks and Public Places), Chapter 13.34 (Picketing), Section 13.34.020 (Notice of Intent to Picket) to add exceptions and spontaneous events; Chapter 13.34 (Picketing), Section 13.34.030 (Receipt of Notification) to delete and reserve; Chapter 13.34 (Picketing), Section 13.34.050 (Violation) to delete and reserve; Chapter 13.36 (Parades and Public Assemblies) to amend chapter title to 'Parades;' Chapter 13.36 (Parades and Public Assemblies), Section 13.36.010 (Definitions) to delete 'Demonstration' and 'Public Assembly' from definitions; Chapter 13.36 (Parades and Public Assemblies), Section 13.36.020 (Permit Required) to add spontaneous event exception; Chapter 13.36 (Parades and Public Assemblies), Section 13.36.020 (Permit Required) to add spontaneous event exception; Chapter 13.36 (Parades and Public Assemblies), Section 13.36.020 (Definitions) to remove the term 'Public Assembly from violations; Chapter 13.38 (Special Events), Section 13.38.020 (Definitions) to remove Picketing, Demonstrating, Parades, and Public Assembly from the definition of 'Special Events;' the penalty as provided in Section 13.36.100 and 13.38.110 of the City Code.

#### **BACKGROUND / DISCUSSION:**

Proposed ordinance amendments to Chapter 13.34 Picketing, Chapter 13.36 Parades and Public Assemblies, and Chapter 13.38 Special Events of the City Code.

### PRIOR COUNCIL ACTION:

Ordinance amendment was originally posted in September 2022; was deleted for additional amendments and briefing with Council members.

#### AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?

PRIMARY DEPARTMENT: Police SECONDARY DEPARTMENT: City Attorney's Office

DEPARTMENT HEAD: Chief Gregory K. Allen

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

#### ORDINANCE NO.

AN ORDINANCE AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.34 (PICKETING), SECTION 13.34.020 (NOTICE OF INTENT TO PICKET) TO ADD EXCEPTIONS AND SPONTANEOUS EVENTS; CHAPTER 13.34 (PICKETING), SECTION 13.34.030 (RECEIPT OF NOTIFICATION) TO DELETE AND RESERVE; CHAPTER 13.34 (PICKETING), SECTION 13.34.050 (VIOLATION) TO DELETE AND RESERVE; CHAPTER 13.36 (PARADES AND PUBLIC ASSEMBLIES) TO AMEND CHAPTER TITLE TO 'PARADES;' CHAPTER 13.36 (PARADES AND PUBLIC ASSEMBLIES) SECTION 13.36.010 (DEFINITIONS) **'PUBLIC** TO DELETE **'DEMONSTRATION'** AND ASSEMBLY' FROM **DEFINITIONS; CHAPTER 13.36 (PARADES AND PUBLIC ASSEMBLIES), SECTION** 13.36.020 (PERMIT REQUIRED) TO ADD SPONTANEOUS EVENT EXCEPTION; CHAPTER 13.36 (PARADES AND PUBLIC ASSEMBLIES), SECTION 13.36.100 (VIOLATION – PENALTY) TO REMOVE THE TERM 'PUBLIC ASSEMBLY' FROM VIOLATIONS; CHAPTER 13.38 (SPECIAL EVENTS), SECTION 13.38.020 (DEFINITIONS) TO REMOVE PICKETING, DEMONSTRATING, PARADES, AND PUBLIC ASSEMBLY FROM THE DEFINITION OF 'SPECIAL EVENTS'; THE PENALTY AS PROVIDED IN SECTION 13.36.100 AND 13.38.110 OF THE CITY CODE.

WHEREAS, the City of El Paso has a significant governmental interest in the preservation of an individual's right to exercise his or her First Amendment right of free speech and the City recognizes that public sidewalks, roadways, streets and parks are traditional public forums in which expressive activity occurs; and

WHEREAS, the City of El Paso has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order while preserving traditional public forums; and

WHEREAS, the City of El Paso has a significant governmental interest in maintaining the free flow of traffic on public roadways, streets and sidewalks, preserving access to public places and buildings and protecting property; and

WHEREAS, the City of El Paso may impose reasonable and constitutional regulations for the use of public roadways, streets, sidewalks, and parks during a public assembly to further the abovereferenced governmental interests, without regard to the purpose or content of the message but to preserve the public peace and to avoid unreasonable conflicts with other legitimate use of such property; and

WHEREAS, the City Council of the City of El Paso finds that the regulations established herein serve compelling governmental interests and they are narrowly drawn to achieve those interests.

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

<u>Section 1</u>. That Title 13 (Streets, Sidewalks and Public Parades), Chapter 13.34 (Picketing), Section 13.34.020 (Notice of Intent to Picket), is hereby amended to read as follows:

### Section 13.34.020 Notice of intent to picket, Exceptions.

- A. It shall not be an offense to picket on a City street, sidewalk, or other public way, or in a City park, without having provided notice.
- B. The organizer of a picket that the organizer knows, or should reasonably know will be attended by a group of fifty or more individuals are encouraged to give notice of intent to picket to the chief of police or his designee at least seventy-two hours before the beginning of the picket. The notice of intent to picket shall include the following information:
  - 1. The name, address and contact telephone number for the organizer of the picket;
  - 2. The name, address and contact telephone number of the person giving notice of intent to picket if different from the organizer;
  - 3. The name of the organization or group sponsoring the picket;
  - 4. The location where the picket is to take place;
  - 5. The date and time the picket will begin and end; and
  - 6. The anticipated number of participants, and the basis on which this estimate is made.
- C. The chief of police shall develop a procedure by which individuals can give notice of intent to picket under this chapter, to include instructions as to where such notices are filed. Such policy shall be on file at police department headquarters and at the offices of the city clerk and the permit official designated to issue permits under Chapters 13.28, 13.32 and 13.36 of this code, and shall be made available to the public.
- D. A notice of intent to picket is not required to be given for picketing by a group of less than fifty individuals.
- E. A notice of intent to picket is not required for a spontaneous event for which an attendee or event organizer cannot provide the level of advance notice required by this chapter, such as an event occasioned by recent news or current affairs, that is conducted solely on city right-of-way or parkland. A spontaneous event is subject to other laws. To help ensure public safety, an organizer of a spontaneous event is not required to, but is encouraged to, notify the El Paso Police Department of the date, time, place, and an estimate of the approximate number of persons who will be participating. This section is applicable regardless of the number of individuals in attendance.

Section 2. That Title 13 (Streets, Sidewalks and Public Parades), Chapter 13.34 (Picketing), Section 13.34.030 (Receipt of Notification), is hereby deleted and reserved:

### ORDINANCE NO. \_

#### Section 13.34.030 – RESERVED.

**Section 3.** That Title 13 (Streets, Sidewalks and Public Parades), Chapter 13.34 (Picketing), Section 13.34.050 (Violation), is hereby deleted and reserved:

#### Section 13.34.050 – RESERVED.

<u>Section 4.</u> That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.36 (Parades and Public Assemblies) title be amended to Chapter 13.36 Parades, Section 13.36.010 (Definitions), shall hereby be amended to read as follows:

### **Chapter 13.36 Parades**

### Section 13.36.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Appeals official" means the city manager or a deputy city manager as designated by the city manager.

"Arterial" means a public right-of-way designated on the city's official major thoroughfare plan that has a minimum right-of-way width of seventy feet for the purpose of carrying more traffic volume than a local street.

"Event" means the collective reference to a parade, demonstration or public assembly.

"Parade" means an athletic event, march, pageant, procession or other similar activity consisting of persons, animals, vehicles or things, or any combination thereof, that disrupts the normal flow of traffic upon any public roadways or utilizes the appropriate areas within a city-controlled park. The length and route of a parade shall be as approved in accordance with the requirements of this chapter, provided however, a parade consisting solely of moving vehicles may not utilize more than six miles of city roadways, excluding any staging, pre-parade assembly or disbanding areas. A funeral procession is not a parade.

"Peak traffic hours" means between the hours of seven a.m. and nine a.m. and four p.m. and six p.m. on Monday through Friday, except legal holidays.

"Permit official" means the person or persons designated by the city manager as being responsible for issuing permits under this chapter. The city manager may designate different persons as the permit official for different categories of permitted events and for different facilities or locations.

"Roadway" means the paved area of a street between the face of the curb lines, including the driving and parking lanes, which is provided for the movement of vehicles.

"Sidewalk" means that portion of the public right-of-way which is designated for the use and movement of pedestrians.

"Street" means that portion of public right-of-way improved, designed or ordinarily used for vehicular traffic.

### ORDINANCE NO.

<u>Section 5.</u> That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.36 (Parades and Public Assemblies), Section 13.36.020 (Permit Required), shall hereby be amended to read as follows:

- A. No parade is permitted unless a permit allowing such activity has been obtained pursuant to this chapter.
- B. A permit is not required if the parade is a spontaneous event for which an attendee or event organizer cannot provide the level of advance notice required by this chapter, such as an event occasioned by recent news or current affairs. A spontaneous event is subject to other laws. To help ensure public safety, an organizer of a spontaneous event is not required to, but is encouraged to, notify the Permit Official and the El Paso Police Department of the date, time, place, and an estimate of the approximate number of persons who will be participating.

**Section 6.** That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.36 (Parades and Public Assemblies), Section 13.36.100.A. shall hereby be amended to read as follows:

A. It shall be unlawful to unreasonably hamper, obstruct, impede, or interfere with a parade, or with any person, vehicle, or animal participating or used in the parade, and any person violating any provision in this chapter shall, upon conviction, be guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030 of this code.

**Section 7.** That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.38 (Special Events), Section 13.38.020 (Definitions), shall hereby be amended to read as follows:

### Section 13.38.020 Definitions.

For the purpose of this Chapter, the words and phrases defined in the sections below shall have the meanings therein respectively ascribed to them by this Section:

- A. "Affected Person" means the property owner, property manager or tenant of each property abutting the portion of a public right-of-way to be closed.
- B. "Appeals Official" means the City Manager or the person designated by the City Manager as being responsible for hearing appeals to decisions made by the permit official.
- C. "Applicant" means any person, group, organization, or entity who seeks a special event permit from the permit official to conduct or sponsor a special event governed by this chapter. An applicant must be 18 years of age or older.
- D. "Permit Application Fee" means the fee to be paid by the applicant at the time the application is filed with the permit official, pursuant to the fee schedule established by resolution of the City Council.
- E. "Permit Official" means the person or persons designated by the City Manager as being responsible for issuing permits under this chapter.

### ORDINANCE NO.

- F. "Permittee" means any person or organization issued a special event permit by the permit official.
- G. "Private Property Event" means events conducted solely on private property and not requiring the use of any public right-of-way.
- H. "Public Right-of-Way" means any street, sidewalk, alley and/or easement dedicated to the public use, as further defined by Chapter 19.50 of this Code.
- I. "Site Map" means a map or diagram approximately to scale depicting the area to be closed or used in conjunction with the Special Event showing all fire lanes, booths, stages, portable toilets, trash containers, any other important features for the event, and any other materials the applicant intends to place within the area.
- J. "Special Event" means any bazaar, block party, street dance, sidewalk sale, show, exhibition, festival, concert, celebration, or other event that requires the full or partial closure or occupation of a public right-of-way and is not classified as a film-making event, temporary event, or private property event as defined by other chapters of this Title.
- K. "Special Event Permit" means a permit issued under this chapter authorizing the conduct of a special event in accordance with its terms and conditions. A special event permit may be issued for a single event or for multiple dates of the same recurring event provided no changes are made to the site plan and all dates occur within twelve (12) months of permit issuance.
- L. "Temporary Traffic Control Plan" means a plan describing temporary traffic control measures through and around the special event site to be used for facilitating pedestrian and vehicular users during the event.

**Section 8.** That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.38 (Special Events), Section 13.38.030.D. shall hereby be amended to read as follows:

### Section 13.38.030 Permit Required.

- D. This Chapter shall not apply to the following events and activities, which are governed by other provisions of the El Paso Municipal Code:
  - 1. An event which occurs exclusively within a city park or facility (Section 13.24.030);
  - 2. A film-making event (Chapter 13.30);
  - 3. A temporary event (Chapter 13.32);
  - 4. A parade (Chapter 13.36);
  - 5. A private property event.

**Section 9.** Except as herein amended, Title 13 (Streets, Sidewalks and Public Places) of the El Paso City Code shall remain in full force and effect.

### ORDINANCE NO.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_\_, 2022.

### **CITY OF EL PASO**

Oscar Leeser Mayor

**ATTEST:** 

Laura D. Prine City Clerk

### **APPROVED AS FORM:**

Eric Gutierrez Assistant City Attorney

### **APPROVED AS TO CONTENT:**

Gregory Aften, Chief El Paso Police Department

### ORDINANCE: NO.\_\_\_\_\_ 22-1026-12056 |PL#1194566v.3/EG

TITLE 13.34 – Picketing; 13.36 Parades and Public Assemblies; 13.38 – Special Events (CLEAN)

#### ORDINANCE NO.

AN ORDINANCE AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.34 (PICKETING), SECTION 13.34.020 (NOTICE OF INTENT TO PICKET) TO ADD EXCEPTIONS AND SPONTANEOUS EVENTS; CHAPTER 13.34 (PICKETING), SECTION 13.34.030 (RECEIPT OF NOTIFICATION) TO DELETE AND RESERVE; CHAPTER 13.34 (PICKETING), SECTION 13.34.050 (VIOLATION) TO DELETE AND RESERVE; CHAPTER 13.36 (PARADES AND PUBLIC ASSEMBLIES) TO AMEND CHAPTER TITLE TO 'PARADES;' CHAPTER 13.36 (PARADES AND PUBLIC ASSEMBLIES) SECTION 13.36.010 (DEFINITIONS) TO DELETE 'DEMONSTRATION' AND 'PUBLIC ASSEMBLY' FROM **DEFINITIONS; CHAPTER 13.36 (PARADES AND PUBLIC ASSEMBLIES), SECTION** 13.36.020 (PERMIT REQUIRED) TO ADD SPONTANEOUS EVENT EXCEPTION; CHAPTER 13.36 (PARADES AND PUBLIC ASSEMBLIES), SECTION 13.36.100 (VIOLATION - PENALTY) TO REMOVE THE TERM 'PUBLIC ASSEMBLY' FROM VIOLATIONS; CHAPTER 13.38 (SPECIAL EVENTS), SECTION 13.38.020 (DEFINITIONS) TO REMOVE PICKETING, DEMONSTRATING, PARADES, AND PUBLIC ASSEMBLY FROM THE DEFINITION OF 'SPECIAL EVENTS'; THE PENALTY AS PROVIDED IN SECTION 13.36.100 AND 13.38.110 OF THE CITY CODE.

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

Section 1. That Title 13 (Streets, Sidewalks and Public Parades), Chapter 13.34 (Picketing), Section 13.34.020 (Notice of Intent to Picket), is hereby amended to read as follows:

#### Section 13.34.020 Notice of intent to picket, Exceptions.

- A. <u>It shall not be an offense to picket on a City street, sidewalk, or other public way, or in a City park, without having provided notice.</u>
- B. The organizer of a picket that the organizer knows, or should reasonably know will be attended by a group of twenty-fivefifty or more individuals shall are encouraged to give notice of intent to picket to the chief of police or his designee at least seventy-two hours before the beginning of the picket. The notice of intent to picket shall include the following information:
  - 1. The name, address and contact telephone number for the organizer of the picket;
  - The name, address and contact telephone number of the person giving notice of intent to picket if different from the organizer;
  - 3. The name of the organization or group sponsoring the picket;
  - 4. The location where the picket is to take place;
  - 5. The date and time the picket will begin and end; and

#### ORDINANCE NO.

22-1026-12056 |PL#1194566/EG TITLE 13.34 – Picketing; 13.36 Parades and Public Assemblies; 13.38 – Special Events (RED-LINE)

- The anticipated number of participants, and the basis on which this estimate is made.
- BC. The chief of police shall develop a procedure by which individuals will give notice of intent to picket under this chapter, to include instructions as to where such notices are filed. Such policy shall be on file at police department headquarters and at the offices of the city clerk and the permit official designated to issue permits under Chapters 13.28, 13.32 and 13.36 of this code, and shall be made available to the public.
- CD. A notice of intent to picket is not required to be given for picketing by a group of less than twenty fivefifty individuals.
- E. A notice of intent to picket is not required for a spontaneous event for which an attendee or event organizer cannot provide the level of advance notice required by this chapter, such as an event occasioned by recent news or current affairs, that is conducted solely on city right-of-way or parkland. A spontaneous event is subject to other laws. To help ensure public safety, an organizer of a spontaneous event is not required to, but is encouraged to, notify the El Paso Police Department of the date, time, place, and an estimate of the approximate number of persons who will be participating. This section is applicable regardless of the number of individuals in attendance.

Section 2. That Title 13 (Streets, Sidewalks and Public Parades), Chapter 13.34 (Picketing), Section 13.34.030 (Receipt of Notification), is hereby deleted and reserved:

Section 13.34.030 – RESERVED. Receipt of notification. Upon the receipt of a notice of intent to picket given in accordance with Section 13.34.020 of this chapter, the chief of police or designee shall without unnecessary delay issue a receipt of notice. The receipt shall contain all information stated in the notice. The organizer of a picket shall be responsible for maintaining the receipt, and shall present it when so requested by a law enforcement officer or other eity official.

Section 3. That Title 13 (Streets, Sidewalks and Public Parades), Chapter 13.34 (Picketing), Section 13.34.050 Violation), is hereby deleted and reserved:

ORDINANCE NO. \_\_\_\_\_\_ 22-1026-12056 |PL#1194566/EG TITLE 13.34 – Picketing; 13.36 Parades and Public Assemblies; 13.38 – Special Events (RED-LINE) Formatted: Indent: Hanging: 0.03"

Section 13.34.050 <u>– RESERVED.Violation.A.</u> It shall be unlawful for any person to violate any provision of this chapter.

B.Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and shall be punished as provided in Sections 1.08.010 through 1.08.030 of this code.

<u>Section 4.</u> That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.36 (Parades and Public Assemblies and Public Assemblies), Section 13.36.010 (Definitions), shall hereby be amended to read as follows:

#### Section 13.36.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Appeals official" means the city manager or a deputy city manager as designated by the city manager.

"Arterial" means a public right-of-way designated on the city's official major thoroughfare plan that has a minimum right-of-way width of seventy feet for the purpose of carrying more traffic volume than a local street.

"Demonstration" means a public display of sentiment for or against a person or cause, including protesting, rallies and ceremonies.

"Event" means the collective reference to a parade, demonstration or public assembly.

"Parade" means an athletic event, march, pageant, procession or other similar activity consisting of persons, animals, vehicles or things, or any combination thereof, that disrupts the normal flow of traffic upon any public roadways or utilizes the appropriate areas within a city-controlled park. The length and route of a parade shall be as approved in accordance with the requirements of this chapter, provided however, a parade consisting solely of moving vehicles may not utilize more than six miles of city roadways, excluding any staging, preparade assembly or disbanding areas. A funeral procession is not a parade.

"Peak traffic hours" means between the hours of seven a.m. and nine a.m. and four p.m. and six p.m. on Monday through Friday, except legal holidays.

"Permit official" means the person or persons designated by the city manager as being responsible for issuing permits under this chapter. The city manager may designate different persons as the permit official for different categories of permitted events and for different facilities or locations.

#### "Public assembly" means:

1. A demonstration which is reasonably anticipated to obstruct the normal flow of traffic upon any public readway and that is collected together in one place; or

2. A demonstration held in and utilizing an exclusive portion of eity owned rights of way held open as a public forum, or an exclusive portion of a eity controlled park, such that

#### ORDINANCE NO.

22-1026-12056 |PL#1194566/EG TITLE 13.34 – Picketing; 13.36 Parades and Public Assemblies; 13.38 – Special Events (RED-LINE) the right of way or area of the park is blocked or obstructed, for a period of less than one day. An exclusive use of a city controlled park for a demonstration must be in conformity with the requirements imposed upon such use under Section 13.24.200 of this code.

"Roadway" means the paved area of a street between the face of the curb lines, including the driving and parking lanes, which is provided for the movement of vehicles.

"Sidewalk" means that portion of the public right-of-way which is designated for the use and movement of pedestrians.

"Street" means that portion of public right-of-way improved, designed or ordinarily used for vehicular traffic.

<u>Section 5.</u> That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.36 (Parades and Public Assemblies), Section 13.36.020 (Permit Required), shall hereby be amended to read as follows:

- A. No parade or public assembly is permitted unless a permit allowing such activity has been obtained pursuant to this chapter.
- B. A permit is not required if the parade is a spontaneous event for which an attendee or event organizer cannot provide the level of advance notice required by this chapter, such as an event occasioned by recent news or current affairs. A spontaneous event is subject to other law. To help ensure public safety, an organizer of a spontaneous event is not required to, but is encouraged to, notify the Permit Official and the El Paso Police Department of the date, time, place, and an estimate of the approximate number of persons who will be participating.

Section 6. That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.36 (Parades and Public Assemblies), Section 13.36.100 (Violation – Penalty), shall hereby be amended to read as follows:

- A. It shall be unlawful to unreasonably hamper, obstruct, impede, or interfere with a parade or public assembly, or with any person, vehicle, or animal participating or used in the parade or public assembly, and any person violating any provision in this chapter shall, upon conviction, be guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030 of this code.
- B. It shall be unlawful for the operator of a motor vehicle to drive between vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade and any person violating this chapter shall, upon conviction, be guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030 of this code.
- C. A person who promotes or sponsors a parade for which a permit is required without a permit having been issued shall be deemed guilty of a misdemeanor and shall be punished as provided in Sections 1.08.010 through 1.08.030 of this code.

#### ORDINANCE NO.

22-1026-12056 |PL#1194566/EG TITLE 13.34 – Picketing; 13.36 Parades and Public Assemblies; 13.38 – Special Events (RED-LINE) Formatted: Indent: Left: 0.5", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.33" + Indent at: 0.58"

- D. A person to whom a permit has been issued who intentionally violates the terms of the permit or who violates any of the duties set forth in Section 13.36.080 of this chapter shall be deemed guilty of a misdemeanor and shall be punished as provided in Sections 1.08.010 through 1.08.030 of this code.
- E. A person participating in a parade for which a permit has been issued who intentionally violates the terms of the permit shall, upon conviction, be guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030 of this code.
- F. A person who participates in a parade for which a permit is required without a permit having been issued shall, upon conviction, be guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030 of this code.
- G. This chapter shall not be construed to authorize the use of the public roadways except in exact compliance with the laws of the state and other ordinances of the city applicable thereto, and persons who violate such other laws and ordinances shall be punished according to the provisions of the other applicable laws and ordinances.
- H. Nothing in this chapter prohibits a law enforcement officer or firefighter from issuing a command to move or disperse in accordance with Texas Penal Code Section 42.04 in the event of a riot, unreasonable noise or obstructing passageway.

Section 7. That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.38 (Special Events), Section 13.38.020 (Definitions), shall hereby be amended to read as follows:

#### Section 13.38.020 Definitions.

For the purpose of this Chapter, the words and phrases defined in the sections below shall have the meanings therein respectively ascribed to them by this Section:

- A. "Affected Person" means the property owner, property manager or tenant of each property abutting the portion of a public right-of-way to be closed.
- B. "Appeals Official" means the City Manager or the person designated by the City Manager as being responsible for hearing appeals to decisions made by the permit official.
- C. "Applicant" means any person, group, organization, or entity who seeks a special event permit from the permit official to conduct or sponsor a special event governed by this chapter. An applicant must be 18 years of age or older.
- D. "Permit Application Fee" means the fee to be paid by the applicant at the time the application is filed with the permit official, pursuant to the fee schedule established by resolution of the City Council.
- E. "Permit Official" means the person or persons designated by the City Manager as being responsible for issuing permits under this chapter.
- F. "Permittee" means any person or organization issued a special event permit by the permit official.
- G. "Private Property Event" means events conducted solely on private property and not requiring the use of any public right-of-way.

#### **ORDINANCE NO.**

22-1026-12056 |PL#1194566/EG TITLE 13.34 – Picketing; 13.36 Parades and Public Assemblies; 13.38 – Special Events (RED-LINE)

- H. "Public Right-of-Way" means any street, sidewalk, alley and/or easement dedicated to the public use, as further defined by Chapter 19.50 of this Code.
- 1. "Site Map" means a map or diagram approximately to scale depicting the area to be closed or used in conjunction with the Special Event showing all fire lanes, booths, stages, portable toilets, trash containers, any other important features for the event, and any other materials the applicant intends to place within the area.
- J. "Special Event" means any bazaar, block party, street dance, sidewalk sale, show, exhibition, festival, concert, celebration, or other event that requires the full or partial closure or occupation of a public right-of-way and is not classified as a film-making event, temporary event, picket, demonstration, parade, public assembly, or private property event as defined by other chapters of this Title.
- K. "Special Event Permit" means a permit issued under this chapter authorizing the conduct of a special event in accordance with its terms and conditions. A special event permit may be issued for a single event or for multiple dates of the same recurring event provided no changes are made to the site plan and all dates occur within twelve (12) months of permit issuance.
- L. "Temporary Traffic Control Plan" means a plan describing temporary traffic control measures through and around the special event site to be used for facilitating pedestrian and vehicular users during the event.

**Section 8.** That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.38 (Special Events), Section 13.38.030 (Permit Required), shall hereby be amended to read as follows:

#### Section 13.38.030 Permit Required.

- A. No special event, as defined herein, shall be conducted upon a public right-of-way unless a special event permit allowing such activity has been obtained pursuant to this Chapter.
- B. A special event permit may be issued for a single event or for multiple dates of the same recurring event provided no changes are made to the site plan and all dates occur within twelve (12) months of permit issuance.
- C. The special event permit required by this Chapter is in addition to any and all other permits and or licenses that may be required for the event or event activities pursuant to any other provision of the El Paso Municipal Code, any other city regulation, or any other county, state or federal law or regulation, including but not limited to permits related to health, food, alcohol, safety, and sound amplification.
- D. This Chapter shall not apply to the following events and activities, which are governed by other provisions of the El Paso Municipal Code:
  - 1. An event which occurs exclusively within a city park or facility (Section 13.24.030);
  - 2. A film-making event (Chapter 13.30);
  - 3. A temporary event (Chapter 13.32); 4. A picket (Chapter 13.34);
  - 45. A demonstration, parade or public assembly (Chapter 13.36);

#### ORDINANCE NO.

22-1026-12056 |PL#1194566/EG TITLE 13.34 – Picketing; 13.36 Parades and Public Assemblies; 13.38 – Special Events (RED-LINE)

#### 56. A private property event.

Section 9. Except as herein amended, Title 13 (Streets, Sidewalks and Public Places) of the El Paso City Code shall remain in full force and effect.

#### ORDINANCE NO.

22-1026-12056 |PL#1194566/EG TITLE 13.34 – Picketing; 13.36 Parades and Public Assemblies; 13.38 – Special Events (RED-LINE) ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_\_, 2022.

#### **CITY OF EL PASO**

Oscar Leeser Mayor

ATTEST:

Laura D. Prine

**APPROVED AS FORM:** 

#### **APPROVED AS TO CONTENT:**

Eric Gutierrez Assistant City Attorney Gregory Allen, Chief El Paso Police Department

ORDINANCE NO. \_\_\_\_\_\_ 22-1026-12056 |PL#1194566/EG TITLE 13.34 ~ Picketing; 13.36 Parades and Public Assemblies; 13.38 – Special Events (RED-LINE)

An Ordinance Amending Title 13 -Streets, Sidewalks, and Public Places Chapter 13.34 Picketing, Chapter 13.36 Parades and Public Assemblies, and Chapter 13.38 Special Events





### Strategic Goal Alignment

Goal 2 - Set Standard for a Safe & Secure City

- 2.1 Maintain standing as one of the nation's top safest cities
- 2.3 Increase public safety operational efficiency



## **Picketing Regulations**



- Overview
- Picketing Ordinance is located in 13.34 of the City Code.
- Last amended in 2006.
- Picketing is a public display or demonstration by one or more persons of sentiment for or against a person or cause, including protesting.
- Two other sections are being amended for cross-reference purposes (13.36 Parades and 13.38 Special Events).
- Parades are planned, permitted events that disrupt the normal flow of traffic upon public roadways.
- Special Events are permitted events that include bazaars, block parties, sidewalk sales, shows, exhibits, festivals, or other events that require full or partial closure of public right-of-ways.



# How do courts determine if regulation is legal?



- Any permit scheme controlling the time, place, and manner of speech must meet the intermediate scrutiny standard of review by:
  - Being content and viewpoint neutral.
  - Being **narrowly tailored** to serve a significant governmental interest.
  - Leaving open **ample alternatives** for communication



# What is the significant governmental interest here?



- City of El Paso has a significant governmental interest:
  - In the preservation of an individual's right to exercise First Amendment right of free speech
  - In protecting the health, safety, and welfare of the general public and preserving the public order while preserving traditional public forums
  - In maintaining the free flow of traffic on public roadways, streets and sidewalks, preserving access to public places and buildings and protecting property





## Benchmarking of Other Cities:

• Austin, TX

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- Houston, TX
- San Antonio, TX
- Lubbock, TX
- Los Angeles, CA
- Washington, D.C.



### **Spontaneous Protest Standards**



- Picketing regulations should include an express exception to the permitting requirements for spontaneous demonstrations.
- The gov't cannot flatly ban groups of people from spontaneously gathering on sidewalks or in public parks in response to a dramatic news event.
- In these situations, ANY advance notice requirement would essentially prevent the demonstration and permanently lessen the dissemination of the desired message.



### Proposed Spontaneous Event Language: 13.34.020.E.



 A notice of intent to picket is not required for a <u>spontaneous event</u> for which an attendee or event organizer cannot provide the level of advance notice required by this chapter, such as an event occasioned by recent news or current affairs, that is conducted solely on city right-of-way or parkland. A spontaneous event is subject to other law. To help ensure public safety, an organizer of a spontaneous event is not required to, but is encouraged to, notify the El Paso Police Department of the date, time, place, and an estimate of the approximate number of persons who will be participating. This section is applicable regardless of the number of individuals in attendance.



### **Exceptions for Small Groups**



- Permitting regulations should include exceptions for small gatherings.
- Courts have not set a threshold that is presumptively constitutional, many regs apply permitting requirement only to groups larger than 50 to 100 persons.
- Current City Code has exception for less than 25 people.





# Proposed Small Groups Exception Language: 13.34.020.D.

• A notice of intent to picket is not required to be given for picketing by a group of less than fifty individuals.



### Proposed Spontaneous Event Language: 13.34.020.E.



• A notice of intent to picket is not required for a spontaneous event for which an attendee or event organizer cannot provide the level of advance notice required by this chapter, such as an event occasioned by recent news or current affairs, that is conducted solely on city right-of-way or parkland. A spontaneous event is subject to other law. To help ensure public safety, an organizer of a spontaneous event is not required to, but is encouraged to, notify the El Paso Police Department of the date, time, place, and an estimate of the approximate number of persons who will be participating. This section is applicable regardless of the number of individuals in attendance.



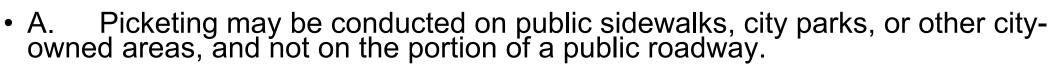
## **Proposed Amendments on Violations**



- 13.34.050 Violation It shall be unlawful for any person to violate any provision of this chapter.
- New section: 13.34.020.A. It shall not be an offense to picket on a City street, sidewalk, or other public way, or in a City park, without having provided notice.
- No citations for violations of picketing section going forward



# Picketing Regulations (No Change)



- B. Picketing shall not disrupt, block, obstruct or interfere with pedestrian or vehicular traffic.
- C. If more than 1 group of picketers desire to picket at or near the same location, law enforcement officers may assign each group a place to picket in order to preserve the public peace.
- D. Spectators of pickets shall not physically interfere with picketers.
- E. Picketers shall be subject to all applicable local, state and federal laws including, but not limited to the city's noise ordinance, amplification ordinance, and when crossing or using any roadway, picketers shall comply with all laws applicable to pedestrians.
- F. Law enforcement officers/firefighters may issue a command to move or disperse in accordance with Texas Penal Code Section 42.04 in the event of a riot, unreasonable noise or obstructing passageway.



### **Going Forward**



- Training with PD Academy/training bulletin for PD.
- Community partners have excellent communication with PD.
- PD working with community partners to ensure future picketing events are safe for everyone.



# Chapter 13.36 Parades and Public Assemblies Amendments

- Amend title to "Parades"
- Delete definitions of Demonstration and Public Assembly
- Add similar spontaneous event exception language
- Permitting requirements remain and violations of max \$500

## Chapter 13.38 Special Events

- Delete select definitions and mentions of picketing, demonstration, or public assembly
- Permitting requirements remain and violations of max \$500





### Questions?







### Mission

Deliver exceptional services to support a high quality of life and place for our community

### Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government

### ☆ Values

Integrity, Respect, Excellence, Accountability, People





Brindar servicios excepcionales para respaldar una vida y un lugar de alta calidad para nuestra comunidad

### 🖻 Visión

Desarrollar una economía regional vibrante, vecindarios seguros y hermosos y oportunidades recreativas, culturales y educativas excepcionales impulsadas por un gobierno de alto desempeño

### ☆ Valores

Integridad, Respeto, Excelencia, Responsabilidad, Personas



Legislation Text

File #: 22-1479, Version: 1

#### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts Environmental Services, Ellen A. Smyth, (915) 212-6000

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

An Ordinance terminating the Sign Design non-exclusive franchise for waste containers on sidewalks and other City property.

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

**DEPARTMENT:** Environmental Services

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: December 6, 2022

CONTACT PERSON NAME AND PHONE NUMBER: Ellen Smyth, Director 915-212-6000

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 3 - Promote the Visual Image of El Paso

#### SUBJECT:

An Ordinance terminating the Sign Design non-exclusive franchise for waste containers on sidewalks and other City property.

#### **BACKGROUND / DISCUSSION:**

A franchise agreement is required for the placement of solid waste containers on City property. The Ordinance, acknowledged by the franchisee, identifies standards to be maintained for the placement, maintenance, and use for advertising of the solid waste containers at locations identified in the ordinance.

The franchisee does not wish to continue with the franchise, therefore staff is asking Council to terminate the franchise that was approved on November 12, 2019.

#### **PRIOR COUNCIL ACTION:**

A franchise expiring on November 11, 2024 was approved by Council on November 12, 2019.

#### AMOUNT AND SOURCE OF FUNDING:

N/A

#### 

DEPARTMENT HEAD:

Hubalos H. Jama Nicholas Ybarra for Ellen Smyth

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

#### ORDINANCE NO.

#### AN ORDINANCE TERMINATING THE SIGN DESIGN NON-EXCLUSIVE FRANCHISE FOR WASTE CONTAINERS ON SIDEWALKS AND OTHER CITY PROPERTY.

WHEREAS, Ordinance No. 019001 granted to Robert Mowad d/b/a Sign Design ("Grantee") a non-exclusive franchise for waste containers on sidewalks and other city property (Exhibit "A"); and

WHEREAS, Ordinance No. 019001 states the City may terminate this franchise without cause, for any reason whatsoever, upon thirty days written notice to Grantee; and

WHEREAS, Grantee desires to terminate this franchise and the City agrees to terminate the Sign Design non-exclusive franchise for waste containers on sidewalks and other city property; and

WHEREAS, the City has complied with the notice requirements set out in Ordinance No. 019001 by giving Grantee thirty days written notice that City is terminating the Sign Design non-exclusive franchise for waste containers on sidewalks and other city property; and

WHEREAS, the City of El Paso now requests the non-exclusive franchise for waste containers on sidewalks and other City property granted in Ordinance No. 019001 to Robert Mowad d/b/a Sign Design, be terminated.

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

That the Non-Exclusive Franchise for Waste Containers on Sidewalks and other City Property granted by Ordinance No. 019001 to Robert Mowad d/b/a Sign Design shall be terminated as of the date that this ordinance is approved by City Council.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

#### THE CITY OF EL PASO:

**ATTEST:** 

Oscar Leeser Mayor

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Joyce Garcia Assistant City Attorney

**APPROVED AS TO CONTENT:** 

Hicholas H. Ylanna Nicholas Ybarra for

Ellen A. Smyth, Chief Transit and Field Operations Officer

Exhibit A

4.

#### 019001

ORDINANCE NO.

#### AN ORDINANCE GRANTING TO ROBERT MOWAD D/B/A SIGN DESIGN A NON-EXCLUSIVE FRANCHISE FOR WASTE CONTAINERS ON SIDEWALKS AND OTHER CITY PROPERTY

WHEREAS, Sign Design desires to place waste containers on sidewalks and other City property in accordance with El Paso City Code Section 13.20.120; and

WHEREAS, the City of El Paso (the "City") desires to allow Sign Design to place waste containers on sidewalks and other City property.

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

1. There is hereby granted to Robert Mowad, d/b/a Sign Design, hereinafter called "Grantee," and his assigns, a non-exclusive franchise under El Paso City Code 13.20.120 to place and maintain up to 150 "waste containers" meeting the criteria discussed herein, on sidewalks and other City property. The size of the waste containers shall not exceed thirty-six (36) inches in height and thirty-six (36) inches in width, or as otherwise specified in the El Paso City Code, and the design and construction of the waste containers shall be subject to prior approval by the Director for the Department of Environmental Services (the "Director") of the City. The waste containers must be durable and attractively constructed and shall at all times be maintained by Grantee in such condition as not to constitute a hazard to persons or property, or impede in any way the flow of vehicular or pedestrian traffic, with five feet of free and unobstructed passage around the waste container. The specific, fixed locations for Grantee's waste containers are on Exhibit "A", however, if the Traffic Engineer determines that any of the locations or container placements do not meet these requirements or hinders pedestrian or

#### 019001

ORDINANCE NO.\_\_\_\_\_ 19-1005-1816/PL #934267/Robert Mowad, d/b/a Sign Design – Waste Container Franchise ORD/KLHK vehicular traffic, the Traffic Engineer shall direct Grantee to relocate or remove such waste containers in conformity with this franchise and City Code. Grantee shall comply with the sign regulations contained in City Code Section 20.18.020C, and shall register any new locations with the City's Planning Department if any changes to Exhibit "A" are sought after City Council approvals this franchise. This franchise does not grant the right to locate waste containers on property owned or controlled by the Texas Department of Transportation (TxDOT). The location of any waste containers on property or right of way not owned or controlled by the City of El Paso must be by separate agreement with the appropriate entity.

2. The term of this franchise shall be a five year period beginning November 12, 2019, unless the agreement is otherwise terminated as provided herein. If Grantee is not in default of this agreement, the Grantee may request a one year extension in writing no later than ninety days before the end of the term, unless or until cancelled or terminated as provided for herein. The City Manager or designee is authorized to approve this option to extend.

3. Grantee may use the space on the waste containers for advertising reputable and reliable business concerns that contract for the space. Grantee will not be prohibited from placing any advertisement on the waste containers based on content. This agreement does not allow advertising for any illegal business or activity, a political party, the candidacy of any person for political office, or that is of a character deemed by the City Council to be improper for exhibition in the public streets or parks when judged by contemporary community standards.

4. If any improvements are to be constructed or repairs made, whether by the City or a utility company, on any sidewalk or other City property where Grantee has placed any waste containers, Grantee shall, upon written notice from the Director, remove any waste containers located on the affected City property. The Director shall give Grantee fourteen days written

#### 019001

ORDINANCE NO.

19-1005-1816/PL #934267/Robert Mowad, d/b/a Sign Design - Waste Container Franchise ORD/KLHK

notice of the date when the construction of improvements on such City property is to begin, and Grantee shall remove such waste containers prior to the commencement of construction.

5. During the life of this franchise, Grantee shall maintain, repair or replace the waste containers as necessary, and shall keep them reasonably clean, in neat and attractive appearance, and free of odors. Grantee may change the design of the waste containers if it deems advisable, but such changes shall be subject to prior approval of the Director.

- 5.1 The City will provide written notice to the Grantee in the case of any problem waste container(s) and if the problem is not cured within seven days of that notice, the City can order the removal of said waste container(s).
- 5.2 If Grantee does not remove the problem waste container(s) within seven days of the City's removal order, the City will remove and dispose of the waste container(s) at the Grantee's cost.
- 5.3 The timeframes referenced in this Section 5 may be accelerated by the City in the case of an imminent public health or safety hazard.

6. As part of the consideration for the grant of this franchise, Grantee agrees during the term hereof:

- 6.1 To collect all refuse from the waste containers on a schedule to be approved by the Director within five days of the City's approval of this ordinance and within the timeframe subsequently approved by the Director after any change to the initially approved schedule.
- 6.2 To dispose of such refuse in a legal and proper manner including, but not limited to applicable City ordinance.

7. If Grantee collects and disposes of the refuse or uses his own employees to collect and dispose of the refuse, Grantee shall obtain, pay for and keep in effect a City commercial hauler's license, and shall comply with all laws, codes and ordinances applicable to the collection, hauling and disposal of refuse. Grantee may contract with a permitted hauler to collect and dispose of the refuse.

8. Grantee is deemed, at all times, an independent contractor and is responsible for his own acts. GRANTEE AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE

#### 019001

ORDINANCE NO.

19-1005-1816/PL #934267/Robert Mowad, d/b/a Sign Design - Waste Container Franchise ORD/KLHK

CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LOSS, LIABILITY, DAMAGE, EXPENSE OR CLAIM OF ANY NATURE WHATSOEVER ARISING OUT OF OR INCIDENT TO THIS FRANCHISE, WHICH ARE THE RESULT OF ANY ACT OR OMISSION OF GRANTEE. GRANTEE SHALL GIVE THE CITY REASONABLE NOTICE OF ANY SUCH CLAIMS OR ACTIONS. GRANTEE SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS FRANCHISE.

9. During the term of this franchise, the Grantee will carry public liability insurance by a solvent insurance company authorized to do business in Texas, for the protection of itself and the City, which must be named as an additional insured. The limits of liability must be at least \$250,000 for bodily injury or wrongful death of one person, \$500,000 for more than one person in the same accident, and \$100,000 property damage. The form of the policy is subject to approval by the City and a copy, or a certificate of insurance, must be filed with the City Clerk. The policy must provide that it cannot be canceled without ten days prior notice in writing to the City Clerk.

10. Grantee must comply with all applicable laws, regulations and ordinances.

11. The City may terminate this franchise without cause, for any reason whatsoever, upon thirty days written notice to Grantee.

12. Upon termination of this franchise, the City Council may either require Grantee to remove the containers or the City may acquire the containers as described. If the City opts to acquire the property of Grantee located in accordance with this Agreement, the grant hereof, and

#### 019001

19-1005-1816/PL #934267/Robert Mowad, d/b/a Sign Design - Waste Container Franchise ORD/KLHK

such property will be transferred to the City upon the payment by the City to Grantee of a fair valuation. The fair valuation shall be ascertained by the arbitration and appraisal of a majority of three appraisers, one of whom shall be appointed by the City of El Paso, one of whom shall be appointed by the Grantee, and one of whom shall be appointed by the first two appraisers so appointed by the City and Grantee. If said two appraisers are unable to agree on the designation of a third appraiser, or if the City or Grantee refuses for a period of thirty days after notice to appoint or designate an appraiser, the County Judge of El Paso County, Texas, shall designate such appraiser. The valuation as fixed by a majority of three appraisers shall not include any payment or valuation because of any value derived from the franchise or the fact that it is or may be a going concern, duly installed and operated. If the City Council shall not desire to acquire the property by the payment of a fair valuation therefore, the property shall be removed by the Grantee without cost or expense to the City, and the sidewalk or other public place where the property was located shall be restored to its former condition.

13. This franchise may not be assigned without the prior written consent of the City, which consent will not be unreasonably withheld.

14. As consideration for this franchise, Grantee will pay to the City the annual franchise fee in the amount authorized by the El Paso City Council in Schedule C of the City's Budget Resolution, as amended on or before the 15th day following the granting of this franchise. In addition, on March 31, June 30, September 30 and December 31 of each year during the term of this franchise, the Grantee will submit a quarterly payment in the amount authorized by City Council per waste container in service per month. By way of example, the December 31, 2019 payment shall cover the period from the date of execution to December 31, 2019, and the March 31, 2020 payment shall cover the period from January 1, 2020 to March 31, 2020. This fee will

#### 019001

ORDINANCE NO.

include a report listing the number of waste containers in service, their location and reason for removing a waste container. If the City does not receive one or more of the referenced franchise fees by their due date, the City shall send a written notice of default to the Grantee for lack of payment. The City will give Grantee ten calendar days from the date of such notice to pay in full or the franchise will be terminated at the end of the ten day period. If the Grantee is found to be violating the provisions of this franchise or submitting false records listing locations or number of waste containers, the penalties listed in Section 1.08.030 of the City Code shall be pursued by the City against Grantee. All payments shall be submitted to the Comptroller of the City of El Paso, at the following address: P.O. Box 1890, El Paso, Texas 79950-1890.

15. The City may conduct periodic audits of the waste container locations to ensure quarterly reporting is accurate. The Department of Environmental Services may also investigate any and all complaints addressing waste container condition, locations, and nuisances caused by these waste containers.

16. In addition, Grantee must allow the City to use ten percent of its advertising space on its waste containers to publicize upcoming City-sponsored events and City-related community services messages. The Grantee will meet with the Director within ten days following the execution of this ordinance and again annually as of the date of the granting of this franchise to discuss the number and location of spaces available for City use. The locations shall be fixed until such time as the City agrees to a different location. The City is entitled to use ten percent of the total advertising spaces that the Grantee had available during the immediately preceding three months. There will be no more than one space per waste container for City use. The Grantee reserves the right to try to solicit sponsorship for the spaces allotted for City use. The City reserves the right to approve the wording and design of such advertisements and to accept

#### 019001

ORDINANCE NO.

19-1005-1816/PL #934267/Robert Mowad, d/b/a Sign Design - Waste Container Franchise ORD/KLHK

sponsors. If the Grantee does not have a sponsor for the spaces allotted for City use, the City has the option to furnish its own signs for placement by the Grantee on the waste containers. The City reserves the right to give the Grantee thirty days written notice to update or change the advertisement wording or design of a space reserved for City use.

17. Grantee herein shall indicate the acceptance of the provisions of this Ordinance in writing within five days after the passage thereof.

18. Written notice to the other party may be provided at the following addresses, or at a new address as provided in writing to the nonmoving party by a party that has moved its physical location within thirty days of said relocation without the necessity of amending this contract:

City:

City of El Paso Attn: City Manager P.O. Box 1890 El Paso, Texas 79950-1890

Grantee:

Sign Design Attn: Owner 4334 Emory Rd. El Paso, Texas 79922

#### 019001

ORDINANCE NO.\_\_\_\_\_\_ 19-1005-1816/PL #934267/Robert Mowad, d/b/a Sign Design – Waste Container Franchise ORD/KLHK

CITY CLERK DEPT 2019 OCT 17 PK5:35

PASSED AND APPROVED this 12 th day of NW., 2019.

CITY OF EL PASO

Dee Margo Mayor

ATTEST: Rawra D. Prine

Laura D. Prine City Clerk

#### **APPROVED AS TO FORM:**

Kristen Lynn Hamilton-Karam Assistant City Attorney **APPROVED AS TO CONTENT:** 

Ellen A. Smyth, P.E., Director Department of Environmental Services

(Acceptance and Acknowledgment follow on next page)

#### ACCEPTANCE AND ACKNOWLEDGMENT

#### ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this <u>25</u> day of <u>November</u>, 2019.

#### Robert Mowad d/b/a SIGN DESIGN

By: Robert Mowad

Its: Owner

#### ACKNOWLEDGEMENT

THE STATE OF TEXAS

COUNTY OF EL PASO

This instrument was acknowledged before me on this 25th day of November 2019, by Robert Mowad, acting as the Owner of Sign Design.



Notary Public, State of Texas

Notary's Printed or Typed Name:

1ar

My Commission Expires:

06042022

#### 019001

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ORDINANCE NO.\_\_\_\_\_ 19-1005-1816/PL #934267/Robert Mowad, d/b/a Sign Design – Waste Container Franchise ORD/KLHK

Gateway West	Giles	1
Geronimo	Hughey	1
Hercules	Diana	1
Hondo Pass	Diana	1
Mesa	Camille	1
Mesa	Crosby	1
Mesa	Cliff	1
Mesa Hills	Onix	1
Montana	Dallas	1
Montana	Mescalero	1
Montana	Stanton	1
Montana	Kansas	1
Montana	Piedras	2
North Loop	Hawkins	4
Oregon	Arizona	1
Oregon	River	1
Pebble Hills	Oak Crest	1
Pebble Hills	Lee	3
Pebble Hills	Arrambide	1
Pebble Hills	Running Deer	1
Pershing	Trowbridge	1
Pershing	Raynor	1
Piedras	Altura	1
Piedras	Pershing	1
Piedras	Fort Blvd.	1
Piedras	Tularosa	2
Stanton	Arizona	1
Suncrest	Mesa Hills	1
Trowbridge	Frederick	1
Trowbridge	Chelsea	1
Trowbridge	Howze	1
Vista Del Sol	Vista De Oro	1
Woodrow Bean	Rushing	1
Yandell	Oregon	1
Yandell	El Paso	2
Yarbrough	Springwood	1
Yarbrough	Woodward	1
Yarbrough	Album	1
Yarbrough	Edgemere	1
Zaragoza	Roseway	1
1100		

### 019001

ORDINANCE NO.\_\_\_\_\_\_ 19-1005-1816/PL #934267/Robert Mowad, d/b/a Sign Design – Waste Container Franchise ORD/KLHK 11

#### **EXHIBIT "A"**

Site locations for Sign Design waste containers:

1. 5

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Main Street	Cross Street	No Authorized
Alabama	Nashville	1
Alabama	Richmond	1
Alabama	Wheeling	1
Alabama	Harrison	1
Alabama	Fort Blvd.	1
Alameda	Ysleta	1
Alameda	Harris	1
Altura	Pershing	1
Brown	Cliff	1
Campbell	Arizona	1
Campbell	Arizona	1
Copia	Pershing	1
Copia	Aurora	1
Copia	Altura	1
Copia	Frankford	1
Copia	Fort	2
Copia	Douglas	1
Cotton	Arizona	1
Cotton	Arizona	1
Cotton	Texas	2
Cotton	Wyoming	1
Cotton Grant	Riogrande	1
Dyer	Alps	1
Dyer	Hercules	1
Dyer	Yvette	1
Dyer	Maila	1
Dyer	Rushing	1
Dyer	Diana	1
Dyer	Rutherford	1
Dyer	Marwell	1
Dyer	Broadus	1
Dyer	Fred Wilson	1
Dyer	Mobile	1
Dyer	Rutherford	1
Dyer	Van Buren	1
Gateway West	Sumac	2

## 019001

ORDINANCE NO.\_\_\_\_\_\_ 19-1005-1816/PL #934267/Robert Mowad, d/b/a Sign Design – Waste Container Franchise ORD/KLHK 10



Legislation Text

File #: 22-1476, Version: 1

#### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts Environmental Services, Ellen A. Smyth, (915) 212-6000

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance granting to Tyler Lyon El Paso Street Ads, LLC a non-exclusive franchise for waste containers on sidewalks and other City property.

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

DEPARTMENT: **Environmental Services** 

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: December 6, 2022

CONTACT PERSON NAME AND PHONE NUMBER: Ellen Smyth, Director 915-212-6000

**DISTRICT(S) AFFECTED:** All Districts

STRATEGIC GOAL: Goal 3 – Promote the Visual Image of El Paso

#### SUBJECT:

An Ordinance granting to Tyler Lyon El Paso Street Ads, LLC a non-exclusive franchise for waste containers on sidewalks and other city property.

#### **BACKGROUND / DISCUSSION:**

A franchise agreement is required for the placement of solid waste containers on City property. The Ordinance, acknowledged by the franchisee, identifies standards to be maintained for the placement, maintenance, and use for advertising of the solid waste containers at locations identified in the ordinance.

#### **PRIOR COUNCIL ACTION:**

N/A

#### AMOUNT AND SOURCE OF FUNDING:

N/A

**DEPARTMENT HEAD:** 

Hicholas H. Jama Nicholas Ybarra for Ellen Smyth

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

#### ORDINANCE NO.

#### AN ORDINANCE GRANTING TO TYLER LYON EL PASO STREET ADS, LLC A NON-EXCLUSIVE FRANCHISE FOR WASTE CONTAINERS ON SIDEWALKS AND OTHER CITY PROPERTY

WHEREAS, El Paso Street Ads, LLC desires to place waste containers on sidewalks and other City property in accordance with El Paso City Code Section 13.20.120; and

WHEREAS, the City of El Paso (the "City") desires to allow El Paso Street Ads, LLC to place waste containers on sidewalks and other City property.

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

1. There is hereby granted to Tyler Lyon, El Paso Street Ads, LLC, hereinafter called "Grantee," and his assigns, a non-exclusive franchise under El Paso City Code 13.20.120 to place and maintain up to 150 "waste containers" meeting the criteria discussed herein, on sidewalks and other City property. The size of the waste containers shall not exceed thirty-six (36) inches in height and thirty-six (36) inches in width, or as otherwise specified in the El Paso City Code, and the design and construction of the waste containers shall be subject to prior approval by the Director for the Department of Environmental Services (the "Director") of the City. The waste containers must be durable and attractively constructed and shall at all times be maintained by Grantee in such condition as not to constitute a hazard to persons or property, or impede in any way the flow of vehicular or pedestrian traffic, with five feet of free and unobstructed passage around the waste container. The specific, fixed locations for Grantee's waste containers are on Exhibit "A", however, if the Traffic Engineer determines that any of the locations or container placements do not meet these requirements or hinders pedestrian or vehicular traffic, the Traffic

Engineer shall direct Grantee to relocate or remove such waste containers in conformity with this franchise and City Code. Grantee shall comply with the sign regulations contained in City Code Section 20.18.020C, and shall register any new locations with the City's Planning Department if any changes to Exhibit "A" are sought after City Council approvals this franchise. This franchise does not grant the right to locate waste containers on property owned or controlled by the Texas Department of Transportation (TxDOT). The location of any waste containers on property or right of way not owned or controlled by the City of El Paso must be by separate agreement with the appropriate entity.

2. The term of this franchise shall be a five-year period beginning December 6, 2022, unless the agreement is otherwise terminated as provided herein. If Grantee is not in default of this agreement, the Grantee may request a one-year extension in writing no later than ninety days before the end of the term, unless or until cancelled or terminated as provided for herein. The City Manager or designee is authorized to approve this option to extend.

3. Grantee may use the space on the waste containers for advertising reputable and reliable business concerns that contract for the space. Grantee will not be prohibited from placing any advertisement on the waste containers based on content. This agreement does not allow advertising for any illegal business or activity, a political party, the candidacy of any person for political office, or that is of a character deemed by the City Council to be improper for exhibition in the public streets or parks when judged by contemporary community standards.

4. If any improvements are to be constructed or repairs made, whether by the City or a utility company, on any sidewalk or other City property where Grantee has placed any waste containers, Grantee shall, upon written notice from the Director, remove any waste containers located on the affected City property. The Director shall give Grantee fourteen days written notice of the date

when the construction of improvements on such City property is to begin, and Grantee shall remove such waste containers prior to the commencement of construction.

5. During the life of this franchise, Grantee shall maintain, repair or replace the waste containers as necessary, and shall keep them reasonably clean, in neat and attractive appearance, and free of odors. Grantee may change the design of the waste containers if it deems advisable, but such changes shall be subject to prior approval of the Director.

- 5.1 The City will provide written notice to the Grantee in the case of any problem waste container(s) and if the problem is not cured within seven days of that notice, the City can order the removal of said waste container(s).
- 5.2 If Grantee does not remove the problem waste container(s) within seven days of the City's removal order, the City will remove and dispose of the waste container(s) at the Grantee's cost.
- 5.3 The timeframes referenced in this Section 5 may be accelerated by the City in the case of an imminent public health or safety hazard.

6. As part of the consideration for the grant of this franchise, Grantee agrees during the term hereof:

- 6.1 To collect all refuse from the waste containers on a schedule to be approved by the Director within five days of the City's approval of this ordinance and within the timeframe subsequently approved by the Director after any change to the initially approved schedule.
- 6.2 To dispose of such refuse in a legal and proper manner including, but not limited to applicable City ordinance.

7. If Grantee collects and disposes of the refuse or uses his own employees to collect and dispose of the refuse, Grantee shall obtain, pay for and keep in effect a City commercial hauler's license, and shall comply with all laws, codes and ordinances applicable to the collection, hauling and disposal of refuse. Grantee may contract with a permitted hauler to collect and dispose of the refuse.

8. Grantee is deemed, at all times, an independent contractor and is responsible for his own acts. GRANTEE AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY,

ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LOSS, LIABILITY, DAMAGE, EXPENSE OR CLAIM OF ANY NATURE WHATSOEVER ARISING OUT OF OR INCIDENT TO THIS FRANCHISE, WHICH ARE THE RESULT OF ANY ACT OR OMISSION OF GRANTEE. GRANTEE SHALL GIVE THE CITY REASONABLE NOTICE OF ANY SUCH CLAIMS OR ACTIONS. GRANTEE SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS FRANCHISE.

9. During the term of this franchise, the Grantee will carry public liability insurance by a solvent insurance company authorized to do business in Texas, for the protection of itself and the City, which must be named as an additional insured. The limits of liability must be at least \$250,000 for bodily injury or wrongful death of one person, \$500,000 for more than one person in the same accident, and \$100,000 property damage. The form of the policy is subject to approval by the City and a copy, or a certificate of insurance, must be filed with the City Clerk. The policy must provide that it cannot be canceled without ten days prior notice in writing to the City Clerk.

10. Grantee must comply with all applicable laws, regulations and ordinances.

11. The City may terminate this franchise without cause, for any reason whatsoever, upon thirty days written notice to Grantee.

12. Upon termination of this franchise, the City Council may either require Grantee to remove the containers or the City may acquire the containers as described. If the City opts to acquire the property of Grantee located in accordance with this Agreement, the grant hereof, and such property will be transferred to the City upon the payment by the City to Grantee of a fair valuation. The fair valuation shall be ascertained by the arbitration and appraisal of a majority of three appraisers, one of whom shall be appointed by the City of El Paso, one of whom shall be appointed by the Grantee, and one of whom shall be appointed by the first two appraisers so appointed by the City and Grantee. If said two appraisers are unable to agree on the designation of a third appraiser, or if the City or Grantee refuses for a period of thirty days after notice to appoint or designate an appraiser, the County Judge of El Paso County, Texas, shall designate such appraiser. The valuation as fixed by a majority of three appraisers shall not include any payment or valuation because of any value derived from the franchise or the fact that it is or may be a going concern, duly installed and operated. If the City Council shall not desire to acquire the property by the payment of a fair valuation therefore, the property shall be removed by the Grantee without cost or expense to the City, and the sidewalk or other public place where the property was located shall be restored to its former condition.

13. This franchise may not be assigned without the prior written consent of the City, which consent will not be unreasonably withheld.

14. As consideration for this franchise, Grantee will pay to the City the annual franchise fee in the amount authorized by the El Paso City Council in Schedule C of the City's Budget Resolution, as amended on or before the 15th day following the granting of this franchise. In addition, on March 31, June 30, September 30 and December 31 of each year during the term of this franchise, the Grantee will submit a quarterly payment in the amount authorized by City Council per waste container in service per month. By way of example, the December 31, 2022 payment shall cover the period from the date of execution to December 31, 2022, and the March 31, 2023 payment shall cover the period from January 1, 2023 to March 31, 2023. This fee will include a report listing the number of waste containers in service, their location and reason for removing a waste container. If the City does not receive one or more of the referenced franchise fees by their due date, the City

shall send a written notice of default to the Grantee for lack of payment. The City will give Grantee ten calendar days from the date of such notice to pay in full or the franchise will be terminated at the end of the ten-day period. If the Grantee is found to be violating the provisions of this franchise or submitting false records listing locations or number of waste containers, the penalties listed in Section 1.08.030 of the City Code shall be pursued by the City against Grantee. All payments shall be submitted to the Comptroller of the City of El Paso, at the following address: P.O. Box 1890, El Paso, Texas 79950-1890.

15. The City may conduct periodic audits of the waste container locations to ensure quarterly reporting is accurate. The Department of Environmental Services may also investigate any and all complaints addressing waste container condition, locations, and nuisances caused by these waste containers.

16. In addition, Grantee must allow the City to use ten percent of its advertising space on its waste containers to publicize upcoming City-sponsored events and City-related community services messages. The Grantee will meet with the Director within ten days following the execution of this ordinance and again annually as of the date of the granting of this franchise to discuss the number and location of spaces available for City use. The locations shall be fixed until such time as the City agrees to a different location. The City is entitled to use ten percent of the total advertising spaces that the Grantee had available during the immediately preceding three months. There will be no more than one space per waste container for City use. The City reserves the right to try to solicit sponsorship for the spaces allotted for City use. The City reserves the right to approve the wording and design of such advertisements and to accept sponsors. If the Grantee does not have a sponsor for the spaces allotted for City use, the City has the option to furnish its own signs for placement by the Grantee on the waste containers. The City reserves the

right to give the Grantee thirty days written notice to update or change the advertisement wording or design of a space reserved for City use.

17. Grantee herein shall indicate the acceptance of the provisions of this Ordinance in writing within five days after the passage thereof.

18. Written notice to the other party may be provided at the following addresses, or at a new address as provided in writing to the nonmoving party by a party that has moved its physical location within thirty days of said relocation without the necessity of amending this contract:

City:

City of El Paso Attn: City Manager P.O. Box 1890 El Paso, Texas 79950-1890

Grantee:

El Paso Street Ads, LLC Attn: Owner 1423 E. Missouri Ste. A El Paso, Texas 79902 ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

#### **CITY OF EL PASO:**

Oscar Leeser Mayor

**ATTEST:** 

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Joyce Garcia Assistant City Attorney

#### **APPROVED AS TO CONTENT:**

<u>Huhalas H. Ilanua</u> Nicholas Ybarra for Ellen A. Smyth,

Chief Transit and Field Operations Officer

(Acceptance and Acknowledgment follow on next page)

#### ACCEPTANCE AND ACKNOWLEDGMENT

#### ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

#### Tyler Lyon EL PASO STREET ADS, LLC

By: Tyler Lyon Its: Owner

#### ACKNOWLEDGEMENT

### THE STATE OF TEXAS COUNTY OF EL PASO

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This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Tyler Lyon, acting as the Owner of EL Paso Street Ads, LLC.

Notary Public, State of Texas

Notary's Printed or Typed Name:

My Commission Expires:

#### EXHIBIT "A"

Site locations for El Paso Street Ads, LLC waste containers:

ALABAMANASHVILLE1ALABAMARICHMOND1ALABAMAWHEELING1ALABAMAHARRISON1ALABAMAFORT BLVD.1ALAMEDAYSLETA1ALAMEDAHARRIS1ALAMEDAHARRIS1ALTURAPERSHING1BROWNCLIFF1COPIAARIZONA2COPIAAURORA1COPIAAURORA1COPIAFRANKFORD1COPIAFORT BLVD.2COPIADOUGLAS1COTIONARIZONA2COTTONRORANDE1COTTONRORANDE1COTTONRIO GRANDE1DYERALPS1DYERMANILA1DYERDIANA1DYERBROADUS1DYERBROADUS1DYERMARWELL1DYERFRED WILSON1DYERFRED WILSON1DYERFRED WILSON1DYERFRED WILSON1DYERVAN BUREN1DYERVAN BUREN1DYERVAN BUREN1DYERFRED WILSON1DYERVAN BUREN1DYERJUHAC2GERONIMOHUGHEY1HERCULESDIANA1HERCULESDIANA1DYERSUMAC2GERONIMOHUGHEY1<	Main Street	Cross Street	No Authorized
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GATEWAY BLVD WESTSUMAC2GERONIMOHUGHEY1	DYER	MOBILE	1
GERONIMO HUGHEY 1	DYER	VAN BUREN	1
_	GATEWAY BLVD WEST	SUMAC	2
HERCULES DIANA 1	GERONIMO	HUGHEY	1
	HERCULES	DIANA	1

HONDO PASS	DIANA	1
MESA	CAMILLE	1
MESA	CROSBY	1
MESA	CLIFF	1
MESA HILLS	ONIX	1
MESA HILLS	SUNCREST	1
MONTANA	DALLAS	1
MONTANA	MESCALERO	1
MONTANA	STANTON	1
MONTANA	KANSAS	1
MONTANA	PIEDRAS	2
NORTH LOOP	HAWKINS	4
OREGON	ARIZONA	1
OREGON	RIVER	1
PEBBLE HILLS	OAK CREST	1
PEBBLE HILLS	LEE	3
PEBBLE HILLS	ARRAMIDE	1
PEBBLE HILLS	RUNNING DEER	1
PERSHING	TROWBRIDGE	1
PERSHING	RAYNOR	1
PIEDRAS	ALTURA	1
PIEDRAS	PERSHING	1
PIEDRAS	FORT BLVD.	1
PIEDRAS	TULAROSA	2
TRANSMOUNTAIN	RUSHING	1
TROWBRIDGE	FREDERICK	1
TROWBRIDGE	CHELSEA	1
TROWBRIDGE	HOWZE	1
VISTA DEL SOL	VISTA DE ORO	1
YANDELL	OREGON	1
YANDELL	EL PASO	2
YARBROUGH	SPRINGWOOD	2
YARBROUGH	WOODWARD	1
YARBROUGH	ALBUM	1
YARBROUGH	EDGEMERE	1
ZARAGOZA	ROSEWAY	1
	TOTAL	86



Legislation Text

File #: 22-1478, Version: 1

#### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts Environmental Services, Ellen A. Smyth, (915) 212-6000

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance granting to Ruben Torres d/b/a Elite Advertising a non-exclusive franchise for waste containers on sidewalks and other City property.

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

DEPARTMENT: **Environmental Services** 

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: December 6, 2022

CONTACT PERSON NAME AND PHONE NUMBER: Ellen Smyth, Director 915-212-6000

**DISTRICT(S) AFFECTED:** All Districts

STRATEGIC GOAL: Goal 3 – Promote the Visual Image of El Paso

#### SUBJECT:

APPROVE AN ORDINANCE GRANTING TO RUBEN TORRES d/b/a ELITE ADVERTISING A NON-EXCLUSIVE FRANCHISE FOR WASTE CONTAINERS ON SIDEWALKS AND OTHER CITY PROPERTY

#### **BACKGROUND / DISCUSSION:**

A franchise agreement is required for the placement of solid waste containers on City property. The Ordinance, acknowledged by the franchisee, identifies standards to be maintained for the placement, maintenance, and use for advertising of the solid waste containers at locations identified in the ordinance.

#### **PRIOR COUNCIL ACTION:**

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

**DEPARTMENT HEAD:** 

Hudalas H. Ylama Nicholas Ybarra for Ellen Smyth

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

#### ORDINANCE NO.

#### AN ORDINANCE GRANTING TO RUBEN TORRES D/B/A ELITE ADVERTISING A NON-EXCLUSIVE FRANCHISE FOR WASTE CONTAINERS ON SIDEWALKS AND OTHER CITY PROPERTY

WHEREAS, Ruben Torres d/b/a ELITE ADVERTISING desires to place waste containers on sidewalks and other City property; and

WHEREAS, the City of El Paso (the "City") desires to allow Ruben Torres d/b/a ELITE ADVERTISING to place waste containers on sidewalks and other City property;

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

1. There is hereby granted to Ruben Torres d/b/a ELITE ADVERTISING, hereinafter called "Grantee," and his assigns, a non-exclusive franchise to place and maintain up to 150 "waste containers" meeting the criteria discussed herein, on sidewalks and other City property. The size of the waste containers shall not exceed thirty-six (36) inches in height and thirty-six (36) inches in width, or as otherwise specified in the El Paso City Code, and the design and construction of the waste containers shall be subject to prior approval by the Director for the Department of Environmental Services (the "Director") of the City. The waste containers must be durable and attractively constructed and shall at all times be maintained by Grantee in such condition as not to constitute a hazard to persons or property, or impede in any way the flow of vehicular or pedestrian traffic, with five (5) feet of free and unobstructed passage around the waste container. The specific, fixed locations of existing waste containers are on Exhibit "A", provided, however, that should the Traffic Engineer determine that any of the waste containers on Exhibit "A" do not meet the requirements set forth herein, the Traffic Engineer shall direct Grantee to relocate or remove such

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<sup>22-1005-11760|1209029 |</sup> Ruben Torres d/b/a/ ELITE ADVERTISING Trashcan Franchise ORD JG

waste containers in conformity with this franchise and City Code. Grantee shall comply with City Code Section 20.18.020, and shall register any new locations with the City's Planning Department if any changes to Exhibit "A" locations are sought subsequent to the approval of this franchise by City Council. This franchise does not grant the right to locate waste containers on property owned or controlled by the Texas Department of Transportation (TxDOT). The location of any waste containers on TxDOT property must be by separate agreement with said state department or agency.

2. The term of this franchise shall be a five (5) year period beginning December 6, 2022, unless the agreement is otherwise terminated as provided herein. In the event the Grantee issues a written request to the City to extend the franchise at least ninety (90) days prior to the end of the initial term, the parties may agree to a one-year extension option, unless or until otherwise cancelled or terminated as provided for herein. The option may be exercised on behalf of the City administratively via signature of the City Manager.

3. Grantee may use the space on the waste containers for advertising such reputable and reliable business concerns as may contract for the space. Grantee shall not be prohibited from placing on his/her waste containers any advertisement based on content. No advertising will be permitted, however, which is for any illegal business or activity, which advertises a political party or the candidacy of any person for political office, or which is of a character deemed by the City Council to be improper for exhibition in the public streets or parks when judged by contemporary community standards.

4. If any improvements are to be constructed or repairs made, whether by the City or a utility company, on any sidewalk or other City property where Grantee has placed any waste containers,

Grantee shall, upon written notice from the Director, remove any waste containers located on the affected City property. The Director shall give Grantee fourteen (14) days written notice of the date when the construction of improvements on such City property is to begin, and Grantee shall remove such waste containers prior to the commencement of construction.

5. During the life of this franchise, Grantee shall maintain, repair or replace the waste containers as necessary, and shall keep them reasonably clean, in neat and attractive appearance, and free of odors. Grantee may change the design of the waste containers if it deems advisable, but such changes shall be subject to prior approval of the Director.

- 5.1 The City will provide written notice to the Grantee in the case of any problem waste container(s) and if the problem is not cured within seven (7) days of that notice, the City can order the removal of said waste container(s).
- 5.2 If Grantee does not remove the problem waste container(s) within seven (7) days of the City's removal order, the City will remove and dispose of the waste container(s) at the Grantee's cost.
- 5.3 The timeframes referenced in this Section 5 may be accelerated by the City in the case of an imminent public health or safety hazard.

6. As part of the consideration for the grant of this franchise, Grantee agrees during the term hereof:

- 6.1 To collect all refuse from the waste containers on a schedule to be approved by the Director within five (5) days of the City's approval of this ordinance and within the timeframe subsequently approved by the Director after any change to the initially approved schedule.
- 6.2 To dispose of such refuse in a legal and proper manner including, but not limited to applicable City ordinance.
- 7. If Grantee collects and disposes of the refuse or uses his own employees to collect and

dispose of the refuse, Grantee shall obtain, pay for and keep in effect a City commercial hauler's

license, and shall comply with all laws, codes and ordinances applicable to the collection, hauling

and disposal of refuse. Grantee may contract with a permitted hauler to collect and dispose of the refuse.

8. Grantee shall be deemed at all times to be an independent contractor and shall be responsible for his own acts. Grantee agrees to indemnify, defend and hold harmless the City, its officers, agents and employees from and against any and all loss, liability, damage, expense or claim of any nature whatsoever arising out of or incident to this franchise, which are the result of any act or omission of Grantee. Grantee shall give the City reasonable notice of any such claims or actions. Grantee shall use legal counsel reasonably acceptable to the City in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this franchise.

9. During the term of this franchise, the Grantee will carry public liability insurance by a solvent insurance company authorized to do business in Texas, for the protection of itself and the City, which shall be named as an additional insured. The limits of liability shall be at least \$250,000 for bodily injury or wrongful death of one person, \$500,000 for more than one person in the same accident, and \$100,000 property damage. The form of the policy shall be subject to approval by the City and a copy, or a certificate of insurance, shall be filed with the City Clerk. The policy shall provide that it cannot be canceled without ten (10) days prior notice in writing to the City Clerk.

10. Grantee shall comply with all applicable laws, regulations and ordinances.

11. The City may terminate this franchise without cause, for any reason whatsoever, upon thirty (30) days written notice to Grantee.

12. Upon termination of this franchise, the grant hereof, as well as the property of Grantee situated in and upon the sidewalks and other public places shall, at the option of and upon the payment by the City to Grantee of a fair valuation therefore, be and become the property of the City. The fair valuation shall be ascertained by the arbitration and appraisal of a majority of three appraisers, one of whom shall be appointed by the City of El Paso, one of whom shall be appointed by the Grantee, and one of whom shall be appointed by the first two appraisers so appointed by the City and Grantee. If said two appraisers shall be unable to agree upon the designation of a third appraiser, or if the City or Grantee shall refuse within a period of thirty (30) days after notice to appoint or designate an appraiser, the County Judge of El Paso County, Texas, shall designate such appraiser. The valuation as fixed by a majority of three appraisers shall not include any payment or valuation because of any value derived from the franchise or the fact that it is or may be a going concern, duly installed and operated. If the City Council shall not desire to acquire the property by the payment of a fair valuation therefore, the property shall be removed by the Grantee without cost or expense to the City, and the sidewalk or other public place where the property was located shall be restored to its former condition.

13. This franchise shall not be assigned without the prior written consent of the City, which consent shall not be unreasonably withheld.

14. As consideration for this franchise, Grantee will pay to the City the annual franchise fee in the amount authorized by the El Paso City Council (in Schedule C of the City's Budget Resolution, as amended) on or before the 15th day following the granting of this franchise. In addition, on March 31, June 30, September 30 and December 31 of each year during the term of this franchise, the Grantee will submit a quarterly payment in the amount authorized by City Council per waste

container in service per month. By way of example, the September 30th payment shall cover the period from the date of execution to September 30, 2022, and the December 31, 2022 payment shall cover the period from October 1, 2022 to December 31, 2022. This fee will include a report listing the number of waste containers in service, their location and reason for removing a waste container. If the City does not receive one or more of the referenced franchise fees by their due date, the City shall send a written notice of default to the Grantee for lack of payment. The City will give Grantee ten (10) calendar days from the date of such notice to pay in full or the franchise will be terminated at the end of the ten (10) day period. If the Grantee is found to be violating the provisions of this franchise or submitting false records listing locations or number of waste containers, the penalties listed in Section 1.08.030 of the City Code shall be pursued by the City against Grantor. All payments shall be submitted to the Comptroller of the City of El Paso, at the following address: P.O. Box 1890, El Paso, Texas 79950-1890.

15. The City may conduct periodic audits of the waste container locations to ensure quarterly reporting is accurate. The Department of Environmental Services may also investigate any and all complaints addressing waste container condition, locations, and nuisances caused by these waste containers.

16. In addition, Grantee shall allow the City to use ten percent (10%) of its advertising space on its waste containers to publicize upcoming City-sponsored events and City-related community services messages. The Grantee will meet with the Director within 10 days following the execution of this ordinance and again annually as of the date of the granting of this franchise to discuss the number and location of spaces available for City use. The locations shall be fixed until such time as the City agrees to a different location. The City shall be entitled to use ten percent (10%) of the total advertising spaces which the Grantee had available during the immediately preceding three (3) months. There shall be no more than one space for City use per waste container. The Grantee reserves the right to try to solicit sponsorship for the spaces allotted for City use. The City reserves the right to approve the wording and design of such advertisements and to accept sponsors. If the Grantee does not have a sponsor for the spaces allotted for City use, the City has the option to furnish its own signs for placement by the Grantee on the waste containers. The City reserves the right to give the Grantee thirty (30) days written notices to update or change the advertisement wording or design of a space reserved for City use.

17. Grantee herein shall indicate the acceptance of the provisions of this Ordinance in writing within five (5) days after the passage thereof.

18. Written notice to the other party may be provided at the following addresses, or at a new address as provided in writing to the nonmoving party by a party which has moved its physical location within thirty (30) days of said relocation without the necessity of amending this contract:

City:

Grantee:

City of El Paso Attn: City Manager P.O. Box 1890 El Paso, Texas 79950-1890 Ruben Torres d/b/a ELITE ADVERTISING Attn: Director 6956 Swede Johnsen Dr. El Paso, Texas 79912 PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

#### **CITY OF EL PASO:**

Oscar Leeser Mayor

**ATTEST**:

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Joyce Garcia Assistant City Attorney

#### **APPROVED AS TO CONTENT:**

<u>Hulalos H. Ilanna</u> Nicholas Ybarra for Ellen A. Smyth,

Chief Transit and Field Operations Officer

(Acceptance and Acknowledgment follow on next page)

#### ACCEPTANCE AND ACKNOWLEDGMENT

#### ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Ruben Torres d/b/a ELITE ADVERTISING

By: Ruben Torres

#### ACKNOWLEDGEMENT

THE STATE OF TEXAS COUNTY OF EL PASO

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Ruben Torres, acting as the Director of ELITE ADVERTISING.

Notary Public, State of Texas Notary's Printed or Typed Name:

My Commission Expires:

ORDINANCE NO. 22-1005-11760|1209029 | Ruben Torres d/b/a/ ELITE ADVERTISING Trashcan Franchise ORD JG

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#### EXHIBIT "A"

Site locations for Ruben Torres d/b/a ELITE ADVERTISING waste containers:

AlamedaPiedras1DoniphanOsborne2Gateway EastTower Trail Ln2Lee TrevinoBessemer dr2Lee TrevinoVista Lago1Lee TrevinoWeston Brent In2MontanaOlson2MontanaHuckleberry1MontwoodBobby jones1MontwoodAmy Sue2ReslerArmistad2ReslerColchester2ReslerSan Felipe2ViscountGerald1YarbroughMauer4YarbroughSanta Maria Rd1YarbroughSanta Maria Rd2ZaragozaCashew2ZaragozaCashew2ZaragozaCashew2ZaragozaCashew2ZaragozaCashew2ZaragozaCashew2ZaragozaCashew2ZaragozaCashew2ZaragozaCashew2ZaragozaCashew2XurboughSanta Maria Rd2ZaragozaSandhill2ZaragozaSandhill2ZaragozaCashew2XurboughSandhill2ZaragozaCashew2ZaragozaCashew2XurboughSandhill2XurboughSandhill2XurboughSandhill2XurboughSandhill2	Main Street	Cross Street	Number Authorized
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Lee TrevinoBessemer dr2Lee TrevinoVista Lago1Lee TrevinoWeston Brent In2MontanaOlson2MontanaHuckleberry1MontwoodBobby jones1MontwoodAmy Sue2ReslerArmistad2ReslerColchester2ReslerShire1ReslerSan Felipe2ViscountGerald1YarbroughLafayette1YarbroughSanta Maria Rd1YarbroughSanta Maria Rd1ZaragozaCastner2ZaragozaSandhill2ZaragozaCashew2ZaragozaCashew2	Doniphan	Osborne	2
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ZaragozaCastner2ZaragozaPatrol2ZaragozaSandhill2ZaragozaCashew2	Yarbrough	Rodeo	1
ZaragozaPatrol2ZaragozaSandhill2ZaragozaCashew2	Yarbrough	Santa Maria Rd	1
ZaragozaSandhill2ZaragozaCashew2	Zaragoza	Castner	2
Zaragoza Cashew 2	Zaragoza	Patrol	2
<u> </u>	Zaragoza	Sandhill	2
45	Zaragoza	Cashew	2
			45



Legislation Text

#### File #: 22-1490, Version: 1

#### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### District 3

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Luis Zamora, (915) 212-1552

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

An Ordinance granting Special Permit No. PZST21-00013, to allow for parking spaces serving another property and reduction of lot size on the property described as a portion of Tract 1-B-3-A-2, and a portion of Tract 1-U-1, Block 5, Ascarate Grant, City of El Paso, El Paso County, Texas, pursuant to Section 20.04.320 of the El Paso City Code. The penalty being as provided in Chapter 20.24 of the El Paso City Code.

The proposed special permit meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 7750 Gateway East Blvd. Applicant: Banes General Contractors, PZST21-00013

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

AGENDA DATE:November 22, 2022PUBLIC HEARING DATE:December 13, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553 Luis Zamora, (915) 212-1552

DISTRICT(S) AFFECTED: District 3

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

#### SUBJECT:

An Ordinance granting Special Permit No. PZST21-00013, to allow for parking spaces serving another property and reduction of lot size on the property described as a portion of Tract 1-B-3-A-2, and a portion of Tract 1-U-1, Block 5, Ascarate Grant, City of El Paso, El Paso County, Texas, pursuant to Section 20.04.320 of the El Paso City Code. The penalty being as provided in Chapter 20.24 of the El Paso City Code.

The proposed special permit meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 7750 Gateway East Blvd. Applicant: Banes General Contractors, PZST21-00013

#### **BACKGROUND / DISCUSSION:**

The applicant is requesting approval of a special permit to allow for parking spaces serving another property, which includes twenty-four (24) spaces to serve as employee parking for an existing adjacent property, as well as for a reduction of lot size from the required 20,000 square feet to approximately 12,000 square feet. City Plan Commission recommended 5-0 to approve the proposed special permit on May 19, 2022. As of November 15, 2022, the Planning Division has not received any communication in support or opposition to the rezoning request. See attached staff report for additional information.

#### PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? <u>X</u> YES <u>NO</u>

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division **SECONDARY DEPARTMENT:** N/A

#### 

**DEPARTMENT HEAD:** 

Philip Tiwe

#### ORDINANCE NO.

#### AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST21-00013, TO ALLOW FOR PARKING SPACES SERVING ANOTHER PROPERTY AND REDUCTION OF LOT SIZE ON THE PROPERTY DESCRIBED AS A PORTION OF TRACT 1-B-3-A-2, AND A PORTION OF TRACT 1-U-1, BLOCK 5, ASCARATE GRANT, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.04.320 OF THE EL PASO CITY CODE. THE PENALTY BEING AS PROVIDED IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, the SNAP Partners L.P., has applied for a Special Permit under Section 20.10.280 of the El Paso City Code to allow for parking spaces serving another property and reduction of lot size; and,

WHEREAS, a report was made by the City Plan Commission and a public hearing was held regarding such application; and,

WHEREAS, the City Plan Commission has recommended approval of the subject Special Permit; and

WHEREAS, the subject Special Permit has been submitted to the City Council of the City of El Paso for review and approval; and

**WHEREAS,** the City Council of the City of El Paso finds that the application conforms to all requirements of Section 20.04.320 of the El Paso City Code.

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

1. That the property described as follows, is in a R-3 (Residential) District:

A portion of Tract 1-B-3-A-2, and a portion of Tract 1-U-1, Block 5, Ascarate Grant, City of El Paso, El Paso County, Texas and as more particularly described by metes and bounds on the attahced Exhibit "A"; and,

2. That the City Council hereby grants a Special Permit under Section 20.04.320 of the El Paso City Code to allow for parking spaces serving another property and reduction of lot size on the property described in Paragraph 1 of this Ordinance; and,

3. That this Special Permit is issued subject to the development standards in the R-3 (Residential) District regulations and is subject to the approved Detailed Site Development Plan signed by the Applicant, the City Manager and the Executive Secretary to the City Plan Commission. A copy of this plan is attached hereto as Exhibit "B" and is incorporated herein by reference for all purposes; and,

4. That if at any time the Applicant fails to comply with any of the requirements of this Ordinance, Special Permit No. PZST21-00013, shall be subject to termination; construction

or occupancy shall be discontinued; and the Applicant shall be subject to the penalty provisions of Chapter 20.24 and any other legal or equitable remedy; and,

5. That the Applicant shall sign an Agreement incorporating the requirements of this Ordinance. Such Agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary to the City Plan Commission before building permits are issued.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022.

THE CITY OF EL PASO:

**ATTEST:** 

Oscar Leeser Mayor

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Wed N. Vizad

Wendi N. Vineyard Assistant City Attorney

#### **APPROVED AS TO CONTENT:**

Philip Ciwe Philip F. Etiwe, Director Planning & Inspections Department

#### AGREEMENT

SNAP Partners L.P., the Applicant referred to in the above Ordinance, hereby agrees to develop the above-described property in accordance with the approved Detailed Site Development Plan attached to same Ordinance, and in accordance with the standards identified in the R-3 (Residential) District regulations, and subject to all other requirements set forth in this Ordinance.

**EXECUTED** this  $\bigcirc \ensuremath{\mathcal{Q}}\xspace^{-1}$  day of  $\bigcirc \ensuremath{\mathcal{N}}\xspace^{-1}$ , 2022.

	SNAP Partners L.P.
	(Signature)
	<u>STEVE FOX / OWNER</u> (Name/Title)
ACKNO	DWLEDGMENT
THE STATE OF TEXAS ) ) COUNTY OF EL PASO )	
This instrument is acknowled No V Partners L.P. as Applicant. Notary 1D #10994962 My Commission Expires August 20, 2023	lged before me on this <u>DQ</u> day of <u>STEVE</u> FOX Notary Public, State of Texas Signature
	Printed or Typed Name

My Commission Expires:

8.20.2023

#### EXHIBIT "A"

Field Note Description for a Parking Lot Easement containing 0.2796 Acres of land, being a Portion of Tract 1-B- 3-A-2, and a Portion of Tract 1-U-1, Block 5, Ascarate Grant, El Paso County, Texas

A field note description of 0.2796 acre or 12,183 square feet parcel or tract of land, being 0.2784 acre or 12,129 square feet portion of Tract 1-B-3-A-2 and a 0.00124 acre or 54 square feet portion of Tract 1-U-1, Block 5, Ascarate Grant and lying within the corporate limits of El Paso County, Texas. The said parcels of land are part of the City of El Paso Storm Drainage System, El Paso County, Texas.

The Basis of Bearings are based on those bearing depicted on the plat of Ranchland Commercial District Unit 2, recorded in volume 20, page 18 found in the El Paso County Plat Records located in the City of El Paso, Texas. The parcel or tract of land is being more particularly described by metes and bounds as follows:

Beginning at a half-Inch reinforcement bar with a cap stamped TX 5679 G-3NG set on the most easterly of the 0.2796 acre being described, from which a found rebar bears the following course;

Thence, South 54°07'00" East, a distance of 400.41 feet to a found half-inch rebar with a cap stamped TX 6085 for a corner on the westerly Right-of-Way of Giles Road (90'Right-of-Way);

Thence from the beginning, South 36°52'37" West, a distance of 81.85 feet to a half-Inch reinforcement bar with a cap stamped TX 5679 G-3NG set for a corner;

Thence, North 89°34'00" West, a distance of 75.15 feet to a half-Inch reinforcement bar with a cap stamped TX 5679 G-3NG set for a corner;

Thence, North 00°26'00" West, a distance of 155.66 feet to a found half-inch rebar with no cap found on the most northerly corner of a said City of El Paso Ponding Area.

Thence, South 54°07'00" East, a distance of 154.83 feet to the Beginning and containing 0.2796 acres or 12,183 square feet of land more or less.



#### EXHIBIT "A"

Field Note Description for a Parking Lot Easement containing 0.2796 Acres of land, being a Portion of Tract 1-B- 3-A-2, and a Portion of Tract 1-U-1, Block 5, Ascarate Grant, El Paso County, Texas

This field note description follows a plat of survey of equal date.

I, James D. Whitaker, a Registered Professional Land Surveyor, certify this field note description and accompanying survey plat is a representation of the facts found at the time of a ground survey performed by me or under my supervision on the date shown herein.

September 23, 2020

James D Whitaker, R.P.L.S.

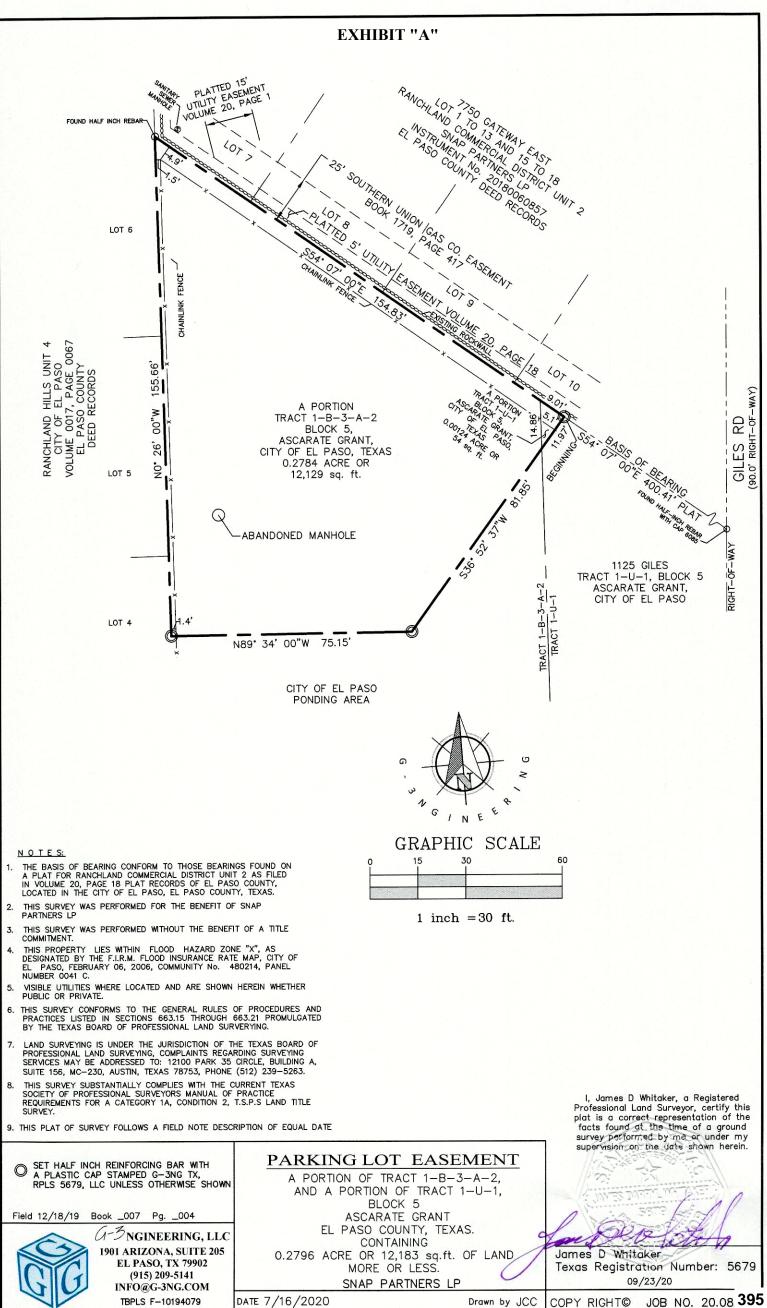
Registration Number: 5679

This field note description was prepared For the benefit of SNAP PARTNERS LP This survey substantially complies with the current Texas Society of Professional Surveyors Manual of Practice requirements for a Category 1A, Condition 2, T.S.P.S. Land Title Survey.

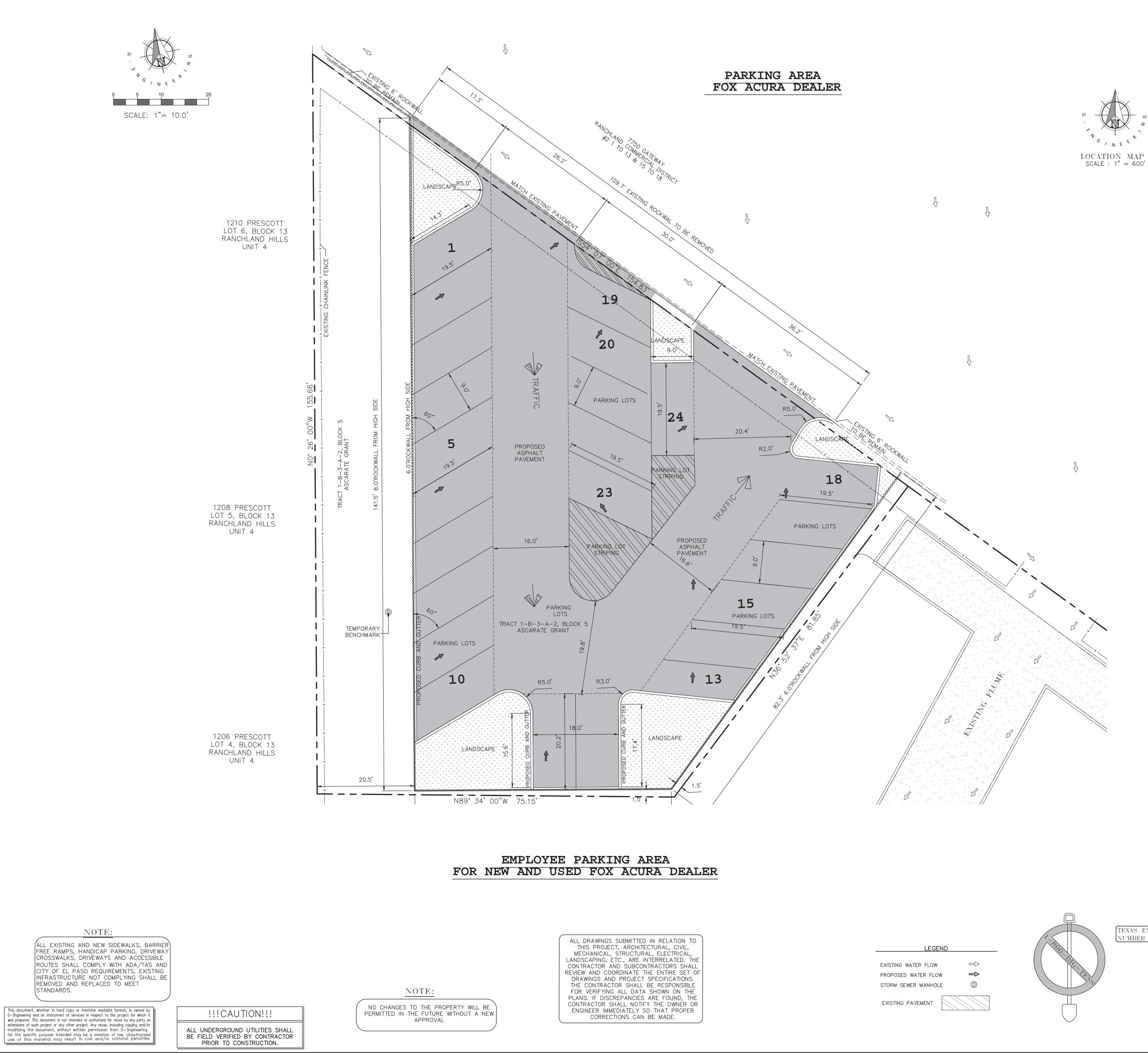
<b>TXBPE F-14940</b>	
TXBPLS F-10194079	

G-ゔEngineering, LLC 1901 Arizona Suite 205 | El Paso, TX 79902 (915) 209-5141 | (915) 503-1969 Fax| info@G-3ng.com



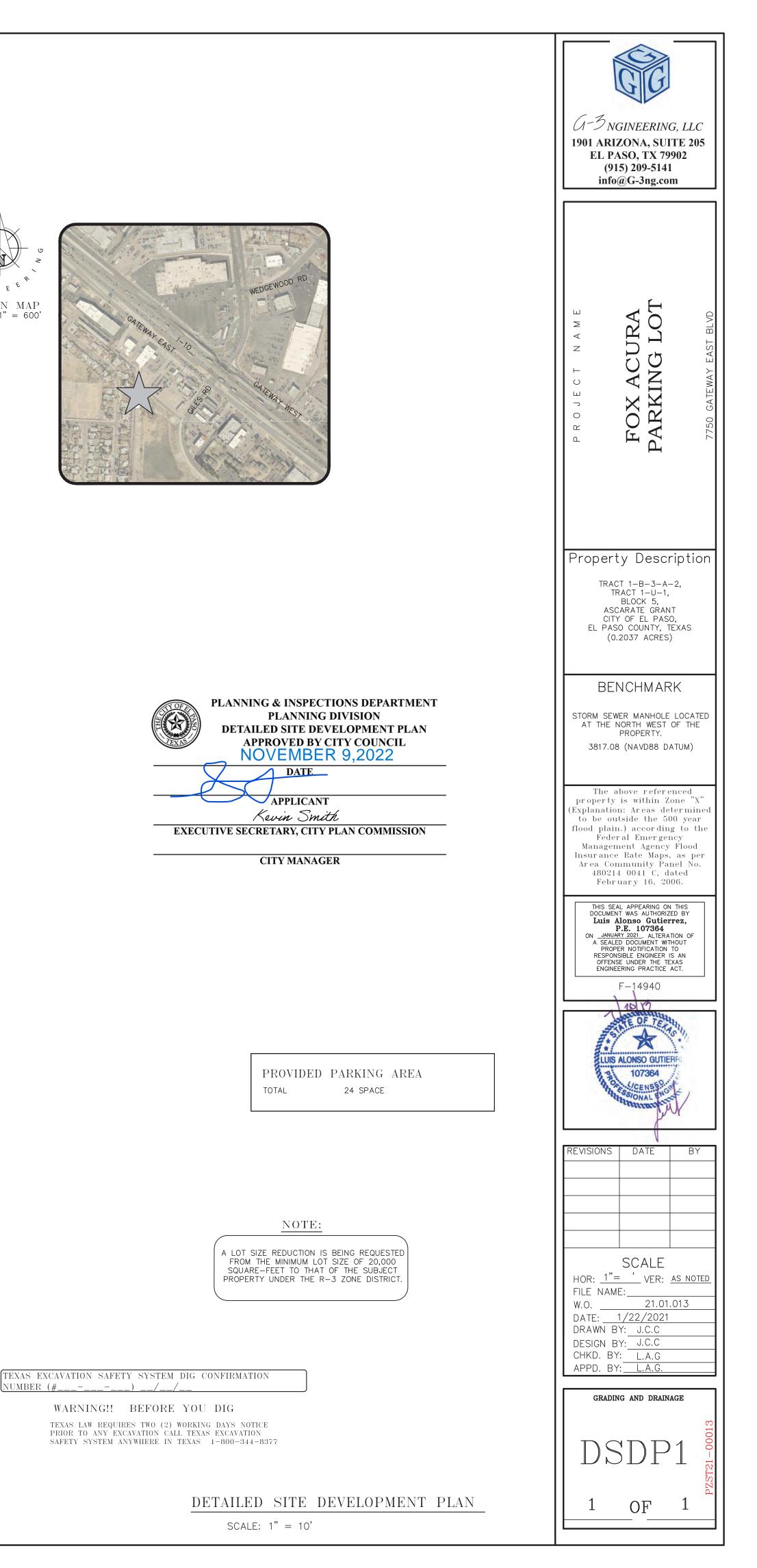


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## EXHIBIT "B"





## 7750 Gateway East Blvd.

City Plan Commission — May 19, 2022

CASE NUMBER:	PZST21-00013
CASE MANAGER:	Luis Zamora, (915) 212-1552, <u>ZamoraLF@elpasotexas.gov</u>
PROPERTY OWNER:	SNAP Partners L.P.
REPRESENTATIVE:	Banes General Contractors
LOCATION:	7750 Gateway East Blvd. (District 3)
PROPERTY AREA:	0.28 acres
EXISTING ZONING:	R-3 (Residential)
REQUEST:	Special Permit for use of Parking Spaces serving another Property and to allow a reduction of lot size in the R-3 (Residential) zone district
<b>RELATED APPLICATIONS:</b>	None
PUBLIC INPUT:	None received as of May 12, 2022

**SUMMARY OF REQUEST:** The applicant is requesting a special permit to allow the use of Parking Spaces serving another Property and to allow a reduction of lot size in the R-3 (Residential) zone district.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL** of the special permit request. The proposed development meets the requirements as per El Paso City Code Section 20.04.320 (Special Permit Approvals) and Section 20.04.150 (Detailed Site Development Plan Approval Process - Procedure).



### PZST21-00013

Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting a special permit to allow the use of parking spaces serving another property and to allow a reduction of lot size in the R-3 (Residential) zone district. The existing parking lot will provide additional parking for employees. The required minimum lot size for the proposed development consist of 20,000 square feet, with the subject property consisting of approximately 12,181 square feet. The existing parking lot includes twenty-four (24) parking spaces solely to serve the adjacent property to the northeast with main access being provided through the same property via a shared access agreement from Gateway East Boulevard.

COMPLIANCE WITH SPECIAL PERMIT REQUIREMENTS (EL PASO CITY CODE SECTION 20.04.320.D)		
Criteria	Does the Request Comply?	
1. The proposed development complies, except to the extent waived, varied or modified pursuant to the provisions of this title, with all of the standards and conditions applicable in the zoning district in which it is proposed to be located.	Yes. The proposed development complies with El Paso City Code Section 20.14.040(F) and all density and dimensional standards with the exception of the request for reduction of lot size. The proposed use of parking spaces serving another property is permissible in the R-3 (Residential) district via City Council approval of a special permit. The arrangement of parking spaces allows for adequate maneuvering and ingress/egress. Its location adequately serves the site generating the use and is in character with the neighborhood.	
2. Furthers <i>Plan El Paso</i> and applicable neighborhood plans or policies.	Yes. The proposed development will provide additional parking spaces to an existing automotive dealership, which is currently integrated within a residential area.	
3. Adequately served by and will not impose an undue burden upon public improvements.	Yes. The proposed development will be private and will only serve the existing automotive dealership. Moreover, access is through an access easement provided by the adjacent property under same ownership.	
<ul> <li>4. Any impacts of the proposed development on adjacent property are adequately mitigated with the design, proposed construction and phasing of the site development.</li> <li>5. The design of the proposed development mitigates substantial environmental problems.</li> <li>6. The proposed development provides adequate landscaping and/or screening where needed.</li> </ul>	Yes. The design consisting in providing a twenty-foot (20') gap and a six-foot (6') high rock wall along residential properties is adequate to mitigate any impacts from the proposed use on the adjacent homes. Yes. Any stormwater will be draining properly into the existing flume as required by El Paso Water. Yes. The proposed development will provide landscaping within the parking spaces. In addition, a	
7. The proposed development is compatible with	six-foot (6') high rock wall is proposed to surround the entire property to the west, south, and east. Yes. The proposed parking lot is in character with the	
adjacent structures and uses.	existing automotive dealership that it will solely serve.	
8. The proposed development is not materially detrimental to the property adjacent to the site.	Yes. The proposed parking lot adds extra surface parking to the adjacent existing automotive dealership and will be buffered from residential dwellings via a twenty-foot (20') gap and a six-foot (6') high rock wall.	

COMPLIANCE WITH PLAN EL PASO GOALS & POLICIES – When evaluating whether a		
proposed special permit is in accordance with Plan El Paso, consider the following factors:		
Criteria	Does the Request Comply?	
<b>Future Land Use Map:</b> Proposed zone change is compatible with the Future Land Use designation for the property:	Yes. The property used to be part of the adjacent ponding area. No other development is being proposed other than that required to use the property as a	
<u>O-1 – Preserve</u> : Publicly owned land such as the Franklin Mountains and Hueco Tanks State Parks, all City and County parks and public drainage areas,	parking lot. Moreover, the uses is in character with the adjacent G-4 Suburban (Walkable) Land Use designation of the adjacent property to the north,	

proposed special permit is in accordance with	
and cemeteries (even if private). These lands will	which the proposed use will solely serve. Furthermore,
not be developed due to their ownership and current use.	the relatively small sized subject property is no longer publicly owned or used for drainage purposes, the much larger remaining property will remain under public ownership and will continue to serve for drainage purposes.
Compatibility with Surroundings: The proposed	Yes. Adjacent properties, including the ponding area
<ul> <li>zoning district is compatible with those surrounding the site:</li> <li><u>R-3 (Residential) District</u>: The purpose of this district is to promote and preserve residential development within the city to create basic neighborhood units. It is intended that the district regulations maintain a low density of dwelling units supporting a suburban-urban interface that permits developments utilizing varying lot configurations. The regulations of the districts will permit primarily single-family and two-family residential areas, and recreational and institutional uses incidental to and serving the neighborhood.</li> </ul>	are zoned R-3. While properties to the west consist of single-family dwellings, they have the rear facing the proposed parking lot, which consist of a twenty-foot (20') gap and a six-foot (6') high rock wall.
THE PROPOSED PROJECT'S EFFECT ON THE PROPERTY A THE FOLLOWING FACTORS:	ND SURROUNDING PROPERTY, AFTER EVALUATING
Historic District or Special Designations & Study Area Plans: Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.	The proposed development is not within a Historic District, special designation, or study area.
Potential Adverse Effects: Potential adverse effects	Approval of this special permit request is not
that might be caused by approval or denial of the requested rezoning.	anticipated to result in adverse impacts to surrounding properties or the community.
Natural Environment: Anticipated effects on the	There are no anticipated negative effects on the natural
natural environment.	environment.
Stability: Whether the area is stable or in transition.	The surrounding area is stable and not in transition. There have not been any recent rezoning or special permits in the area.
<b>Socioeconomic &amp; Physical Conditions</b> : Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.	The physical conditions and location of the property make the existing zoning no longer suitable for the property, but no changes to the zoning are being proposed.

**SUMMARY OF DEPARTMENTAL REVIEW COMMENTS:** There were no adverse comments provided by reviewing departments.

**PUBLIC COMMENT:** The proposed development is located within the Corridor 20 Civic Association and the Mission Valley Civic Association, which were notified of the proposal by the applicant prior to the application submittal. Notice was sent on May 9, 2022 to all property owners within 300 feet of the subject property. As of May 12, 2022, there has been no communication in support of or opposition to the special permit request.

3

#### **RELATED APPLICATIONS:** None.

#### **CITY PLAN COMMISSION OPTIONS:**

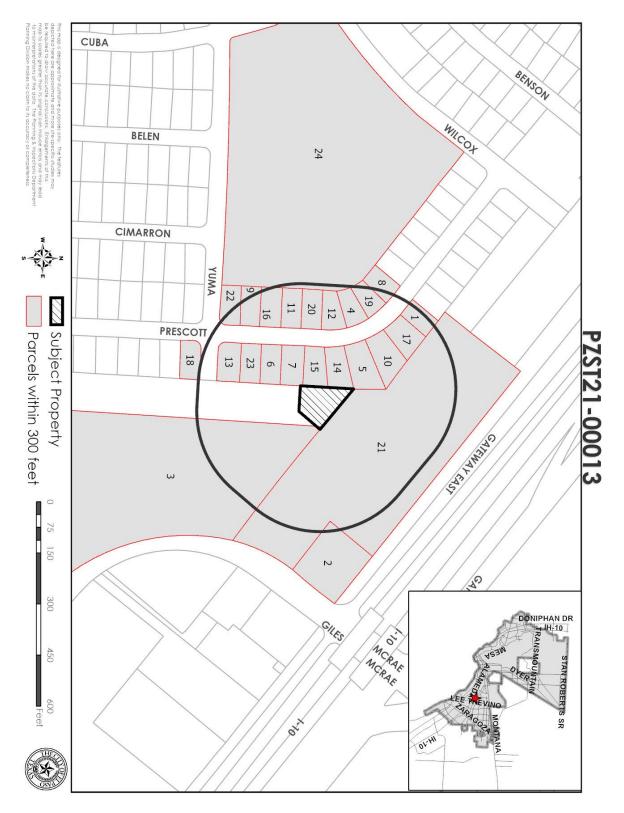
The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

- 1. **Recommend Approval** of the special permit request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan. (Staff Recommendation)
- 2. **Recommend Approval of the special permit request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.
- 3. **Recommend Denial** of the special permit request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

4

- 1. Future Land Use Map
- 2. Neighborhood Notification Boundary Map
- 3. Detailed Site Plan
- 4. Department Comments







#### **Planning and Inspections Department - Planning Division**

Recommend approval.

- 1. Add note on site plan stating a lot size reduction is being requested from the minimum lot size of 20,000 square feet to that of the subject property under the R-3 zone district.
- 2. Verify legal description on site plan as it does not match that on the metes and bounds and survey provided.

#### Planning and Inspections Department – Plan Review & Landscaping Division

No objections to proposed special permit.

#### Planning and Inspections Department – Land Development

Show proposed storm-water runoff direction arrows on site plan. Maybe direct stormwater back and through existing flume to avoid erosion.

Note: Comment addressed.

<u>Fire Department</u> Recommend approval. No adverse comments

<u>Police Department</u> No comments received.

Environment Services

No comments received.

#### **Streets and Maintenance Department**

TIA not required for this application.

#### Sun Metro

Recommend approval. No objections.

#### **El Paso Water Utilities**

EPWater does not object to this request.

#### Water:

There is an existing 30-inch diameter water transmission main that extends along Gateway East Blvd., located north of the property. No direct service connections are allowed to this main as per the El Paso Water – Public Service Board (EPWater-PSB) Rules and Regulations.

There is an existing 12-inch diameter water main that extends along Gateway East Blvd., located north of the property. This main is available for service.

There is an existing 8-inch diameter water main located approximately 202-feet north of the northern property line and extends approximately 230-feet west of the west right-of-way line of Giles Rd. The line then extends south within a 30-foot easement. This main is available for service.

EPWater records indicate an active 3/4-inch yard meter and a 2-inch domestic water meter serving the subject property. The service address for these meters is 7750 Gateway East Blvd.

EPWater records indicate an active 1½-inch domestic water meter serving the subject property. The service address for this meter is 7738 Gateway East Blvd.

Previous water pressure readings conducted on fire hydrant number 3227 located along Gateway East Boulevard approximately 600-feet east of Benson St. have yielded a static pressure of 90 pounds per square inch (psi), residual pressure of 82 psi, discharge of 1,300 gallons per minute (gpm). The owner should, for his own protection and at his own expense, install at the discharge side of each water meter a pressure regulator, strainer, and relief valve, to be set for pressure as desired by the customer. The Owner shall be responsible for the operation and maintenance of the above-described water pressure regulating device.

#### Sanitary Sewer:

There is an existing 8-inch diameter sanitary sewer main that extends within an easement parallel and immediately north of the northern boundary line of the subject property. This main is situated inside a 15-foot wide PSB Easement. No trees are allowed within the PSB Easement. Minimal landscaping is allowed within the PSB Easement. EPWater requires a copy of the proposed landscaping plans. EPWater-PSB requires a complete set of improvement plans, and grading plans for review and approval prior to any work pertaining to the portion of the Property where the existing sanitary sewer easement is located. This is required in order to ascertain that the proposed improvements, including landscaping plans and/or grading will not adversely affect the described existing sanitary sewer main.

#### General:

Gateway East Boulevard is a Texas Department of Transportation (TxDOT) right-of-way. All proposed water and sanitary sewer work to be performed within Gateway East Boulevard right-of-way requires written permission from TxDOT.

The subject subdivision will be located within an Intermediate Pressure Zone. Private water pressure regulating devices will be required at the discharge side of each water meter. The Developer shall include in the sale of contract documents that the lot/home buyer shall acquire ownership of the above-described water pressure regulating devices to be located at the discharge side of the water meters. Additionally, the lot/home buyer shall be responsible for the operation and maintenance of the above-described privately-owned water pressure regulating devices.

EPWater requires a new service application to provide services to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

#### Stormwater:

The plan needs to show the drainage flow pattern; the runoff cannot go directly into the pond, it needs to discharge through the existing flume.

9

Note: Comment addressed.

<u>Texas Department of Transportation</u> No comments received.

El Paso County Water Improvement District #1

EPCWID1 has no comments on the item.



Legislation Text

File #: 22-1492, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

## DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### District 2

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Andrew Salloum, (915) 212-1603

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

An Ordinance changing the zoning of Lot 2, Block 1, Jeff's Subdivision, 8835 Neptune Street, City of El Paso, El Paso County, Texas from R-4 (Residential) to A-2 (Apartment). The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 8835 Neptune Street Applicant: George R. and Avaavau T. Buckingham - PZRZ22-00029

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: December 13, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553

Andrew Salloum, (915) 212-1603

**DISTRICT(S) AFFECTED**: District 2

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

### SUBJECT:

An Ordinance changing the zoning of Lot 2, Block 1, Jeff's Subdivision, 8835 Neptune Street, City of El Paso, El Paso County, Texas from R-4 (Residential) to A-2 (Apartment). The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 8835 Neptune Street Applicant: George R. and Avaavau T. Buckingham - PZRZ22-00029

### **BACKGROUND / DISCUSSION:**

The applicant is requesting to rezone from R-4 (Residential) to A-2 (Apartment) to allow for a triplex. City Plan Commission recommended 5-0 to approve the proposed rezoning on October 6, 2022. As of November 14, 2022, the Planning Division has not received communication in support or opposition to the request. See attached staff report for additional information.

## PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division **SECONDARY DEPARTMENT:** N/A

DEPARTMENT HEAD:

Philip Eine

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING OF LOT 2, BLOCK 1, JEFF'S SUBDIVISION, 8835 NEPTUNE STREET, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-4 (RESIDENTIAL) TO A-2 (APARTMENT). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

Pursuant to Section 20.04.360 of the El Paso City Code, the zoning of Lot 2, Block 1, Jeff's Subdivision, 8835 Neptune Street, located in the City of El Paso, El Paso County, Texas, be changed from R-4 (Residential) to A-2 (Apartment), as defined in Section 20.06.020, and that the zoning map of the City of El Paso be revised accordingly.

The penalties for violating the standards imposed through this rezoning ordinance are found in Section 20.24 of the El Paso City Code.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

THE CITY OF EL PASO

ATTEST:

Oscar Leeser, Mayor

Laura D. Prine, City Clerk

**APPROVED AS TO FORM:** 

Joyce Garcia Assistant City Attorney

## **APPROVED AS TO CONTENT:**

Philip Tiwe

Philip F. Étiwe, Director Planning & Inspections Department

PZRZ22-00029

## 8835 Neptune Street

City Plan Commission — October 6, 2022



CASE NUMBER:	PZRZ22-00029
CASE MANAGER:	Andrew Salloum, (915) 212-1603, <u>SalloumAM@elpasotexas.gov</u>
PROPERTY OWNER:	George R. and Avaavau T. Buckingham
REPRESENTATIVE:	George R. and Avaavau T. Buckingham
LOCATION:	8835 Neptune Street (District 2)
PROPERTY AREA:	0.38 acres
REQUEST:	Rezone from R-4 (Residential) to A-2 (Apartment)
RELATED APPLICATIONS:	None
PUBLIC INPUT:	Received one email in support as of September 29, 2022

**SUMMARY OF REQUEST:** The applicant is requesting to rezone from R-4 (Residential) to A-2 (Apartment) to allow for a triplex.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL** of the request. The proposed zoning district is compatible with the residential uses in the surrounding area and consistent with *Plan El Paso*, the City's Comprehensive Plan and the G-3, Post-War future land use designation.



Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting to rezone from R-4 (Residential) to A-2 (Apartment) to allow for a triplex. There is an existing duplex on the property and the applicant proposes an additional unit to make it a triplex. Triplex use is not permitted in the R-4 (Residential) district. The subject property is 0.38 acres in size. The conceptual plan shows a 2,736 square-foot existing duplex which is proposed to be expanded for a triplex. Access to the subject property is provided from Neptune Street.

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER:** The proposed use of triplex and the A-2 (Apartment) district are compatible with nearby R-4 (Residential) and A-2 (Apartment) districts consisting of single-family dwellings, duplexes, and multi-family dwellings and meet the established character of the neighborhood surrounding the subject property. The closest school is Canyon Hills Middle School located 0.48 miles away and the closest park is Sunrise Park located 0.37 miles away.

<b>COMPLIANCE WITH</b> <i>PLAN EL PASO</i> /REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with <i>Plan El Paso</i> , consider the following factors:		
Criteria	Does the Request Comply?	
<ul> <li>Future Land Use Map: Proposed zone change is compatible with the Future Land Use designation for the property:</li> <li><u>G-3, Post-War</u>: This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.</li> </ul>	Yes. The proposed development is compatible with the future land use designation. The proposed development would increase the available housing stock in the area.	
Compatibility with Surroundings: The proposed zoning district is compatible with those surrounding the site: <u>A-2 (Apartment) District</u> : The purpose of this districts is to promote and preserve residential development within the city associated with a landscape more urban in appearance and permitting a mixture of housing types. It is intended that the district regulations allow for medium densities of dwelling units supported by higher intensity land uses located at the periphery of single-family neighborhoods providing that the overall character and architectural integrity of the neighborhood is preserved. The regulations of the districts will permit building types designed for transition from areas of low density residential neighborhoods to other residential areas, and certain nonresidential uses and support facilities.	Yes. The proposed zoning district is compatible with the surrounding R-4 (Residential) and A-2 (Apartment) zone districts consisting of single-family dwellings, duplexes, and multi-family dwellings and providing different housing options.	
<b>Preferred Development Locations:</b> Located along an arterial (or greater street classification) or the intersection of two collectors (or greater street classification). The site for proposed rezoning is not located mid-block, resulting in it being the only property on the block with an alternative zoning district, density, use and/or land use.	Yes. Proposed development will have access to the Neptune Street which is designated as local as per El Paso's Major Thoroughfare Plan (MTP). The classification of this road is appropriate for the proposed development. It is also a block away from Gateway South Boulevard, classified as a Major Arterial per El Paso's MTP.	

COMPLIANCE WITH *PLAN EL PASO*/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with *Plan El Paso*, consider the following factors:

THE PROPOSED ZONING DISTRICT'S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER		
EVALUATING THE FOLLOWING FACTORS:		
Historic District or Special Designations & Study Area	The proposed development is not within any historic	
Plans: Any historic district or other special designations	districts or study area plan boundaries.	
that may be applicable. Any adopted small areas plans,		
including land-use maps in those plans.		
<b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.	The proposed development is not anticipated to pose any adverse effects on the community. The proposed development is compatible with development immediately surrounding the subject property.	
<b>Natural Environment:</b> Anticipated effects on the natural environment.	The subject property does not involve greenfield, environmentally sensitive land, or arroyo disturbance.	
<b>Stability:</b> Whether the area is stable or in transition.	The area is stable and the proposed development is compatible with R-4 (Residential) and A-2 (Apartment) zone districts and uses of the surrounding properties.	
<b>Socioeconomic &amp; Physical Conditions</b> : Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.	None. The proposed development is within an older, stable area of the city. The established neighborhood is comprised of single-family dwellings, duplexes, and multi-family dwellings.	

**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** The proposed development will have access to Neptune which is designated as local street as per El Paso's MTP. The classification of this road is appropriate for the proposed development. The existing infrastructure and services are adequate to serve the proposed redevelopment. Sidewalks are consistently present near the subject property. The closest bus stop is Hercules Avenue located 0.68 miles.

**SUMMARY OF DEPARTMENTAL REVIEW COMMENTS:** No adverse comments from reviewing departments.

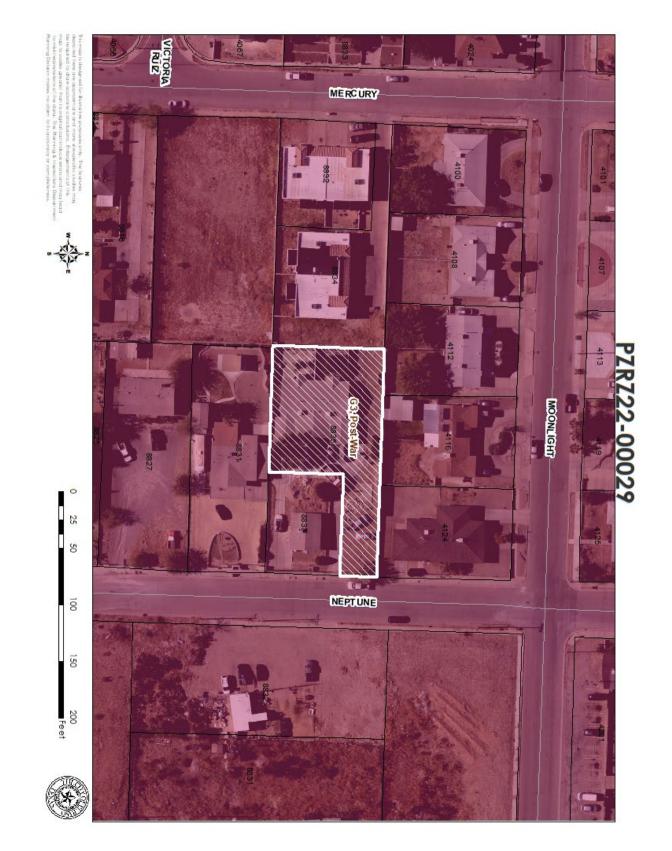
**PUBLIC COMMENT:** The subject property lies within the boundaries of Sunrise Neighborhood Association which was notified of the rezoning application. Public notices were mailed to property owners within 300 feet of the subject property on September 22, 2022. As of September 29, 2022, the Planning Division has received one email in support of the request from Sunrise Neighborhood Association and no communication in opposition to the request.

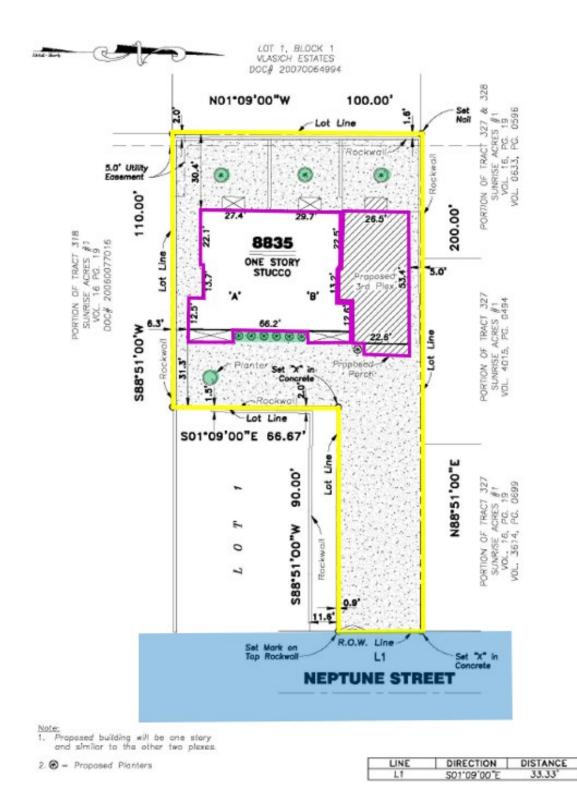
#### **RELATED APPLICATIONS:** None.

**CITY PLAN COMMISSION OPTIONS:** The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

- 1. **Recommend Approval** of the rezoning request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan. (Staff Recommendation)
- 2. **Recommend Approval of the rezoning request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.
- 3. **Recommend Denial** of the rezoning request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

- 1. Future Land Use Map
- 2. Conceptual Site Plan
- 3. Department Comments
- 4. Neighborhood Notification Boundary Map
- 5. Email in Support





#### **Planning and Inspections Department - Planning Division**

Staff recommends approval of the rezoning request.

#### Planning and Inspections Department – Plan Review & Landscaping Division

The generalized site plan is not being reviewed for conformance due to conceptual nature. No objections to proposed rezoning.

Note: At the time of submittal for building permit, the project will need to comply with all applicable provisions of the ICC, TAS and Municipal Code.

#### Planning and Inspections Department – Land Development

No objections to proposed rezoning.

#### Fire Department

Fire access drive from Neptune needs to be 20' wide to provide for proper hose reach coverage or show secondary street for hose reach access. An alley may not be used for "official" fire access declaration.

Note: Applicant to coordinate with Fire Department at time of building permits.

#### **Environment Services**

No comments received.

#### **Streets and Maintenance Department**

No TIA required; no objections.

#### Sun Metro

No comments received.

#### El Paso Water

#### Water:

There is an existing 8-inch diameter water main extending along Neptune St., located approximately 15-feet west of the east right-of-way line. This main is available for service.

Previous water pressure from fire hydrant #6498, located 353-feet north of the intersection of Neptune St. and the Hallmark Ct. has yielded a static pressure of 73 (psi), a residual pressure of 70 (psi), and a discharge of 1,300 (gpm).

#### Sewer:

There is an existing 8-inch diameter sanitary sewer main extending along Neptune St., located approximately 20-feet east of the west right-of-way line. This main is available for service.

#### General:

Service to be provided at the entrance of panhandle lots. The Owner is to provide the locations for the water services outside of the driveways. No vehicular traffic is allowed over the water meter boxes.

EPWater requires a new service application to provide service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

#### Stormwater Engineering

As per Municipal Code: new developments and redevelopments are required to maintain the predevelopment hydrologic response in their post-development state as nearly as practicable in order to reduce flooding. The code also encourages the use of nonstructural storm water management such as the preservation of greenspace, water harvesting, and other conservation efforts, to the maximum extent practicable, per Chapter 19.19, Section 19.19.010, and Subparagraph A-2 & A-5.

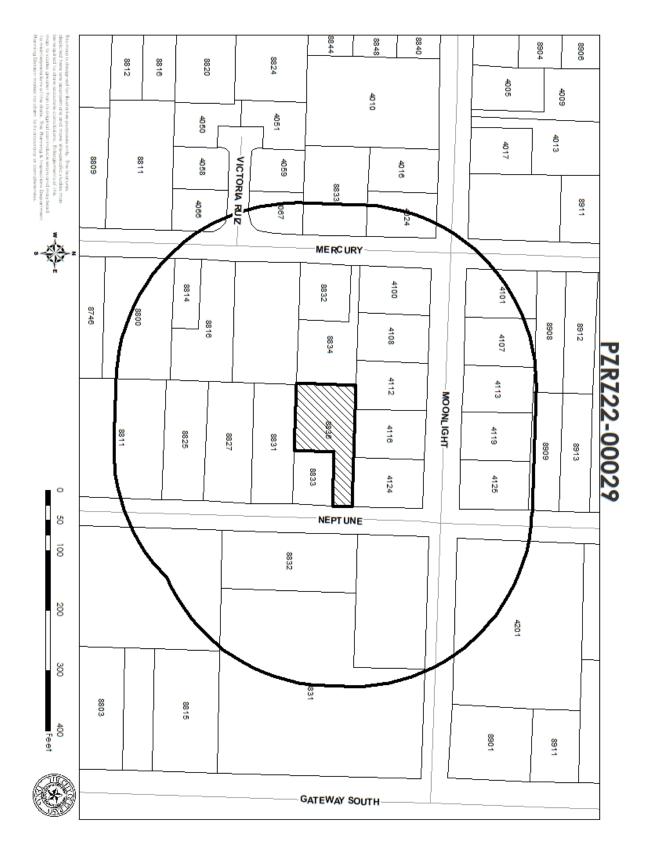
8

#### El Paso County 911 District

The 911 District has no comments/concerns regarding this zoning.

#### El Paso County Water Improvement District #1

The item is not within the boundaries of EPCWID1.



8/11/22, 5:13 PM

Gmail - 8835 Neptune St



GFE Buckingham LLC <gfebuckinghamllc@gmail.com>

#### 8835 Neptune St

2 messages

GFE Buckingham LLC <gfebuckinghamllc@gmail.com> To: Jose Gutierrez <Cptgutz@gmail.com> Tue, Aug 9, 2022 at 8:34 AM

Sir,

We finally received the Site plan from the Surveyor which is the last piece of information that must be given to the association.

As mentioned in the prior meeting, we are only requesting to add a plex that will be less than 1,300 SQFT, hence the MOU signed by both my husband and myself. The intent behind this expansion is not just to fill out the space but also to provide housing for a family in need.

Please reply back to this email to acknowledge receipt and approval for this project so that we can move forward. Hope to hear from you soon. Regards

Tiara Buckingham

--

Virus-free.www.avast.com

#### 4 attachments

Yes, I approve. Thank you for all you do. [Quoted text hidden]

2	32723-Site Plan-(8-2-22).pdf 177K
2	Neptune information for Neighborhood Association.pdf 287K
Z	MOA - Neptune n Sunrise Association.pdf 2277K

Signed Pre-Applicatin and Meeting Notes.pdf 577K

Jose Gutierrez <cptgutz@gmail.com> To: GFE Buckingham LLC <gfebuckinghamllc@gmail.com> Tue, Aug 9, 2022 at 4:52 PM

https://mail.google.com/mail/u/0/?ik=8d55eb2109&view=pt&search=all&permthid=thread-a%3Ar2840361496227488231&simpl=msg-a%3Ar23099141... 1/1



Legislation Text

### File #: 22-1493, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

## DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### District 7

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Andrew Salloum, (915) 212-1603

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

An Ordinance changing the zoning of Tracts 1, 7A, 19A, and portions of Tracts 11,12,13,14,15,16, and 17, Block 53, Ysleta Grant and portions of Tracts 12A, 13A, 14B, and 15A, Socorro Grant Block 24, 10001 Southside Road, City of El Paso, El Paso County, Texas from R-F (Ranch and Farm) to M-2 (Heavy Manufacturing). The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 10001 Southside Road Applicant: El Paso Water - PZRZ22-00031

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

AGENDA DATE:November 22, 2022PUBLIC HEARING DATE:December 13, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553

Andrew Salloum, (915) 212-1603

**DISTRICT(S) AFFECTED**: District 7

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

### SUBJECT:

An Ordinance changing the zoning of Tracts 1, 7A, 19A, and portions of Tracts 11,12,13,14,15,16, and 17, Block 53, Ysleta Grant and portions of Tracts 12A, 13A, 14B, and 15A, Socorro Grant Block 24, 10001 Southside Road, City of El Paso, El Paso County, Texas from R-F (Ranch and Farm) to M-2 (Heavy Manufacturing). The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 10001 Southside Road Applicant: El Paso Water - PZRZ22-00031

### **BACKGROUND / DISCUSSION:**

The applicant is requesting to rezone from R-F (Ranch and Farm) to M-2 (Heavy Manufacturing) to allow for public major utility use (water and wastewater treatment facilities) expansions. City Plan Commission recommended 8-0 to approve the proposed rezoning on November 3, 2022. As of November 14, 2022, the Planning Division has not received communication in support or opposition to the request. See attached staff report for additional information.

## PRIOR COUNCIL ACTION:

N/A

## AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division **SECONDARY DEPARTMENT:** N/A

**DEPARTMENT HEAD:** 

Philip Tiwe

### ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING OF TRACTS 1, 7A, 19A, AND PORTIONS OF TRACTS 11, 12, 13, 14, 15, 16, AND 17, BLOCK 53, YSLETA GRANT AND PORTIONS OF TRACTS 12A, 13A, 14B, AND 15A, SOCORRO GRANT BLOCK 24, 10001 SOUTHSIDE ROAD, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-F (RANCH AND FARM) TO M-2 (HEAVY MANUFACTURING). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

Pursuant to Section 20.04.360 of the El Paso City Code, the zoning of Tracts 1, 7A, 19A, and portions of Tracts 11, 12, 13, 14, 15, 16, and 17, Block 53, Ysleta Grant and portions of Tracts 12A, 13A, 14B, and 15A, Socorro Grant Block 24, located in the City of El Paso, El Paso County, Texas, and as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference, be changed from **R-F** (**Ranch and Farm**) to **M-2** (**Heavy Manufacturing**), as defined in Section 20.06.020, and that the zoning map of the City of El Paso be revised accordingly, and that special permit 87-03 adopted May 5, 1987 is hereby rescinded.

The penalties for violating the standards imposed through this rezoning ordinance are found in Section 20.24 of the El Paso City Code.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

THE CITY OF EL PASO

Oscar Leeser, Mayor

**ATTEST:** 

Laura D. Prine, City Clerk

**APPROVED AS TO FORM:** 

Joyce Garcia Assistant City Attorney

## **APPROVED AS TO CONTENT:**

Philip Tiwe

Philip F. Etiwe, Director Planning & Inspections Department

## EXHIBIT "A"

Prepared For: CEA Group July 6, 2022

### METES AND BOUNDS DESCRIPTION

Description of a parcel of land being Tracts 1, 7A, 19A, and portions of Tracts 11, 12, 13, 14, 15, 16, and 17, Block 53, Ysleta Grant and portions of Tracts 12A, 13A, 14B and 15A, Socorro Grant Block 24, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

THE TRUE POINT OF BEGINNING being a set <sup>1</sup>/<sub>2</sub>" rebar with cap marked TX 5152 for northwesterly corner of Tract 7A, Block 53, Ysleta Grant as described in special warranty deed from El Paso County Water Improvement District No. 1 to The City of El Paso in Volume 3409, Page 874, Real Property Records of E Paso County, Texas with coordinate values of Y=10,619,446.18, X= 432,345.82 in the Texas State Plane Coordinate System, Central Zone 4203, NAD 83, U.S. Survey feet, from which an existing City Monument at the centerline intersection of Pan American Drive and Oro Verde Drive in Pan American Center for Industry Unit One as recorded in Volume 42, Page 2, Plat Records El Paso County, Texas bears North 28°16'17" East (N25°18'30"E, Vol. 3409, Pg. 874) a distance of 5328.69 feet; and a found bridge nail on the centerline of the U.S. levee IBC sta. 24+676.96 bears, South 57°48'30" West a distance of 138.38 feet;

Thence along the southerly right of way line of the Riverside Canal as described in Volume 3409, page 874, Real Property Records of El Paso County, Texas the following 5 courses:

- 1. South 86°22'59" East (S89°30'47"E, Vol. 3409, Pg. 874) a distance of 1004.60 feet to a set 1/2" rebar with cap marked TX 5152;
- 2. South 73°41'42" East (S78°49'30"E, Vol. 3409, Pg 874) a distance of 259.44 feet to a set 1/2" rebar with cap marked TX 5152;
- 3. South 68°30'11" East (S71°37'59"E, Vol. 3409, Pg 874) a distance of 281.77 feet to a set 1/2" rebar with cap marked TX 5152;
- 4. South 63°12'51" East (S68°20'39"E, Vol. 3409, Pg 874) a distance of 214.67 feet to a set 1/2" rebar with cap marked TX 5152;
- 5. South 55°14'53" East a distance of 445.67 feet to a set 1/2" rebar with cap marked TX 5152 on the westerly right of way line of the Riverside canal;

Thence along said right of way line, South 51°56'34" East a distance of 563.38 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along said right of way line, South 45°34'38" East a distance of 876.65 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along said right of way line, South 39°37'16" East a distance of 2807.06 feet to a set 1/2" rebar with cap marked TX 5152 on the northerly right of way line of the Riverside Intercepting Drain;

Thence along said right of way line, South 85°52'38" West a distance of 1312.84 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along said right of way line, South 85°42'38" West a distance of 881.58 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along said right of way line, North 66°57'37" West a distance of 431.02 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along said right of way line, North 48°38'56" West a distance of 1035.17 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along said right of way line, North 38°52'41" West a distance of 423.36 feet to a set 1/2" rebar with cap marked TX 5152 on the westerly line of Tract 15, Block 53, Ysleta Grant;

Thence along said line, North 31°31'36" West a distance of 286.09 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along the westerly line of Tracts 11,12,13,14 and 15, Block 53, Ysleta Grant, North 25°01'06" West a distance of 2178.50 feet to a set 1/2" rebar with cap marked TX 5152 on the westerly line of Tract 7, Block 53, Ysleta Grant as described in Volume 3409, page 874, Real Property Records of El Paso County, Texas;

Thence along said line, North 25°13'08" West (N28°20'56"W, Vol. 3049, Pg. 874) a distance of 235.01 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along said line, North 26°53'16" West (N30°01'03"W, Vol. 3049, Pg. 874) a distance of 292.60 feet to the "TRUE POINT OF BEGINNING" and containing 8,799,630 Square feet or 202.01 Acres of land more or less.

Note:

A drawing of even date accompanies this description.

Bearings referenced to the State Plane Coordinate System, Central Zone (4203) North American Datum of 1983, Unit of measure is U.S. Survey foot adjusted to surface with a scale factor of 1.0002276371.

Ron R. Conde R.P.L.S. No 5152



CONDETINC ENGINEERING / LAND SURVEYING / PLANNING 6080 SURETY DRIVE / SUITE 100 / EL PASO, TEXAS 79905 (915) 592-0283 FAX (915) 592-0286 FIRM NO. 10078100

## 10001 Southside Road

City Plan Commission — November 3, 2022



CASE NUMBER: PZRZ22-00031 Andrew Salloum, (915) 212-1603, SalloumAM@elpasotexas.gov CASE MANAGER: **PROPERTY OWNER:** El Paso Water **REPRESENTATIVE: CEA Group** 10001 Southside Road (District 7) LOCATION: **PROPERTY AREA:** 202.01 acres **REQUEST:** Rezone from R-F (Ranch and Farm) to M-2 (Heavy Manufacturing) **RELATED APPLICATIONS:** None PUBLIC INPUT: None received as of October 27, 2022

**SUMMARY OF REQUEST:** The applicant is requesting to rezone from R-F (Ranch and Farm) to M-2 (Heavy Manufacturing) to allow for public major utility use (water and wastewater treatment facilities) expansions.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL** of the request. The proposed zoning district is compatible with the manufacturing uses in the surrounding area and consistent with *Plan El Paso*, the City's Comprehensive Plan and the G-7, Industrial and/or Railyards future land use designation.

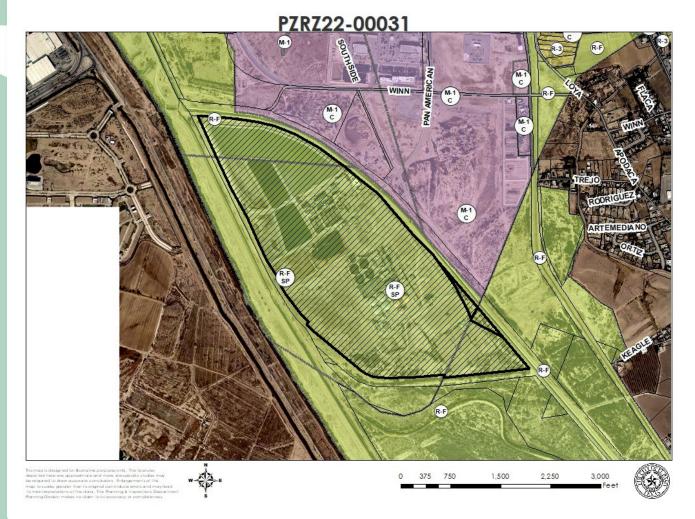


Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting to rezone from R-F (Ranch and Farm) to M-2 (Heavy Manufacturing) to allow for public major utility use (water and wastewater treatment facilities) expansions. The land is owned by El Paso Water. Access to the subject property is provided from Pan American Drive.

**PREVIOUS CASE HISTORY:** On May 5, 1987, City Council made a motion to approve the Special Permit No. 87-03 to allow for a sewage treatment plant (see Attachment no. 4). The existing special permit designation will be repealed once the new rezoning designation request is approved.

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER:** The proposed public utility use and the M-2 (Heavy Manufacturing) district are compatible with nearby M-1 (Light Manufacturing) to the north and east consisting of vacant lots and meets the established character of the neighborhood surrounding the subject property. The closest school is Socorro Middle School located 2.07 miles away and the closest park is Rio Bosque, designated as open space and located adjacent to the subject property.

COMPLIANCE WITH PLAN EL PASO/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with *Plan El Paso*, consider the following factors: Criteria Does the Request Comply? Future Land Use Map: Proposed zone change is Yes. The proposed development is compatible with the compatible with the Future Land Use designation for future land use designation. The property to be the property: rezoned is publicly owned and will continue to serve G-7, Industrial and/or Railyards: This sector public utility use (water treatment plant) functions. applies to industrial parks, large free-standing industrial uses, refineries, non-military airfields, trucking terminals, and mines, all on large tracts in areas dominated by vehicles. This sector is essential to El Paso's economy; however, when an industrial use becomes obsolete, there can be potential for mixed-use redevelopment of the site. This sector also includes the existing railyards which could be redeveloped as mixed-use communities if the rail yards were moved out of town. Compatibility with Surroundings: The proposed zoning Yes. The proposed zoning district is compatible with the district is compatible with those surrounding the site: surrounding M-1 (Light Manufacturing) zone districts. M-2 (Heavy Manufacturing) District: The purpose of this district is to provide for the most intensive of industrial uses which may be characteristic of nuisance or hazardous conditions. It is intended that the districts will serve the entire city. The regulations of the districts will require reasonable standards for the protection and preservation of the compatibility of such uses and adjacent areas. Preferred Development Locations: Located along an Yes. The property has access from Pan American Drive arterial (or greater street classification) or the which is classified as a local street per El Paso's Major intersection of two collectors (or greater street Thoroughfare Plan (MTP). Pan American Drive is classification). The site for proposed rezoning is not currently substandard and may require improvements located mid-block, resulting in it being the only prior to any development. property on the block with an alternative zoning district, density, use and/or land use.

COMPLIANCE WITH *PLAN EL PASO*/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with *Plan El Paso*, consider the following factors:

THE PROPOSED ZONING DISTRICT'S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER		
EVALUATING THE FOLLOWING FACTORS:		
Historic District or Special Designations & Study Area	The proposed development is not within any historic	
Plans: Any historic district or other special designations	districts or study area plan boundaries.	
that may be applicable. Any adopted small areas plans,		
including land-use maps in those plans.		
<b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.	The proposed development is not anticipated to pose any adverse effects on the community. The proposed development is compatible with development immediately surrounding the subject property.	
<b>Natural Environment:</b> Anticipated effects on the natural environment.	The subject property does not involve greenfield, environmentally sensitive land, or arroyo disturbance.	
<b>Stability:</b> Whether the area is stable or in transition.	The area is stable and the proposed development is compatible with M-1 (Light Manufacturing) zone districts of the surrounding properties.	
<b>Socioeconomic &amp; Physical Conditions</b> : Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.	None. The proposed development is within an older, stable area of the city.	

**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** The proposed development will have access to Pan American Drive which is designated as a local street as per El Paso's MTP. Southside Road is currently substandard and may require improvements prior to any development. The closest bus stop is Pan American Drive and Oro Verde Road located 1.21 miles.

**SUMMARY OF DEPARTMENTAL REVIEW COMMENTS:** No adverse comments from reviewing departments.

**PUBLIC COMMENT:** The subject property lies within the boundaries of Mission Valley Civic Association and Corridor 20 Civic Association which was notified of the rezoning application. Public notices were mailed to property owners within 300 feet of the subject property on October 20, 2022. As of October 27, 2022, the Planning Division has not received communication in support or opposition to the request.

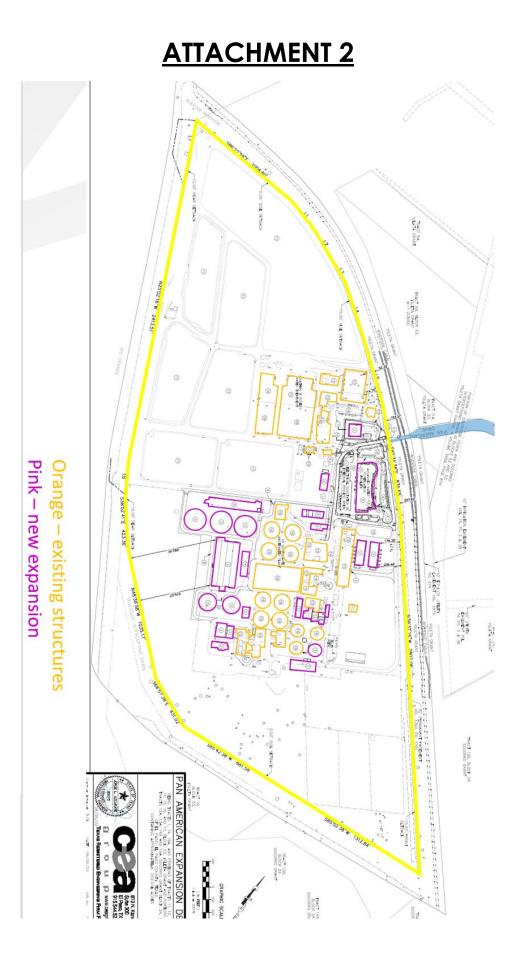
#### **RELATED APPLICATIONS:** None.

**CITY PLAN COMMISSION OPTIONS:** The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

- 1. **Recommend Approval** of the rezoning request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan. (Staff Recommendation)
- 2. **Recommend Approval of the rezoning request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.
- 3. **Recommend Denial** of the rezoning request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

- 1. Future Land Use Map
- 2. Detailed Site Plan
- 3. Department Comments
- 4. SP 87-03
- 5. Neighborhood Notification Boundary Map





#### **Planning and Inspections Department - Planning Division**

Staff recommends approval of the rezoning request.

#### Planning and Inspections Department – Plan Review & Landscaping Division

The generalized site plan is not being reviewed for conformance due to conceptual nature. No objections to proposed rezoning.

Note: At the time of submittal for building permit, the project will need to comply with all applicable provisions of the ICC, TAS and Municipal Code.

#### Planning and Inspections Department – Land Development

1. A portion of the property area will be in Flood zone in the future maps.

2. According to the Riverside International Industrial center re-plat A, they are modifying the Pan-American Drive direction.

3. Show proposed drainage flow patterns on the site plan and identify the discharge and/or storage location(s) for all storm-water runoff within the subdivision.

Note: Applicant to coordinate with Land Development at time of building permits.

#### Fire Department

No adverse comments.

#### **Environment Services**

No comments received.

#### **Streets and Maintenance Department**

No comments received.

<u>Sun Metro</u> No comments received.

#### El Paso Water

EPWater does not object to this request.

#### Water:

There is an existing 12-inch diameter water main located along Pan American Drive. This water main is available for service.

There is an existing 48-inch diameter water main located along Pan American Drive. No direct service connections are allowed to this water main in accordance with El Paso Water – Public Service Board Rules and Regulations.

There is an existing 20-inch reclaimed water that extends along Pan American Drive.

Previous water pressure from fire hydrant #8018 located on Pan American Drive 245-feet south of Franklin Spur Drain, has yielded a static pressure of 100 psi, a residual pressure of 85 psi, and a discharge of 1,126 gallons per minute. The owner should, for his own protection and at his own expense, install at the discharge side of each water meter a pressure regulator, strainer and relief valve, to be set for pressure as desired by the customer. The Lot owner shall be responsible for the operation and maintenance of the above-described water pressure regulating device.

#### Sanitary Sewer:

There is an 8/12-inch diameter sanitary sewer main under construction along Pan American and the plant's access road.

There is an existing 60-inch sanitary sewer main along 60-feet PSB easement that comes from Carl Longuemare Road. No direct service connections are allowed to this water main in accordance with El Paso Water – Public Service Board Rules and Regulations.

There is an existing 72-inch sanitary sewer main along 60-feet PSB easement that comes from Carl Longuemare Road. No direct service connections are allowed to this water main in accordance with El Paso Water – Public Service Board Rules and Regulations.

#### General:

During the site improvement work, the Owner/Developer shall safeguard all existing water mains, sewer mains, and appurtenant structures. The Owner/Developer shall minimize changes in grade above or near the vicinity of the existing PSB facilities and is responsible for the cost of setting appurtenant structures to final grade.

No building, reservoir, structure, parking stalls or other improvement, other than asphaltic paving (HMAC), shall be constructed or maintained on the above referenced EPWater-PSB easement without the written consent of EPWater-PSB. The Developer shall refrain from constructing rock walls, signs, buildings, curbs or any structure that will interfere with the access to the PSB easements. There shall be at least 5-foot setback from the easement line to any building, sign or structure. All easements dedicated for public water and sanitary sewer facilities shall comply with the EPWater-PSB Easement Policy. The PSB easements shall be improved to allow the operation of EPWater maintenance vehicles. EPWater-PSB requires access to the proposed water, sanitary sewer facilities, appurtenances, and meters within the easement 24 hours a day, seven (7) days a week.

EPWater requires a new service application to provide service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

#### **Stormwater Engineering**

EPWater-SW has reviewed the request and has no objections to the proposal.

### El Paso County 911 District

The 911 District has no comments/concerns regarding this zoning.

### El Paso County Water Improvement District #1

No adverse comments.

RESOLUTION GRANTING SPECIAL PERMIT NO. 87-03 A PORTION OF TRACTS 11-14, PLUS ALL OF TRACTS 1, 15, 16, 17 AND 19, BLOCK 53, YSLETA GRANT, PURSUANT TO SECTION 20.04.260 (ZONING) OF THE EL PASO CITY CODE.

WHEREAS, THE PUBLIC SERVICE BOARD has applied for a special permit under Section 20.04.260 (Zoning) of the El Paso City Code, to allow for a sewage treatment plant; and

WHEREAS, a report was made by the City Plan Commission and a public hearing was held regarding such application;

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

That the City Council hereby grants a special permit under Section 20.04.260 of the El Paso City Code, to allow for a sewage treatment plant on the property located on a portion of Tracts ll-14, plus all of Tracts 1, 15, 16, 17 and 19, Block 53, Ysleta Grant, (North of Rio Grande River and west of Rio Bosque Park), City of El Paso, El Paso County, Texas, more particularly described by metes and bounds attached hereto and marked as Exhibit "A".

The City Council finds said property to be in a R-F (Ranch/Farm) District, and that sewage treatment plants are uses authorized by special permit in R-F (Ranch/Farm) districts under Section 20.10.040 (P) of the El Paso City Code.

This permit is issued subject to the development standards in the R-F (Ranch/Farm) District regulations and subject to the development being built in accordance with the approved site development plan. A copy of the approved site development plan, signed by the applicant, the Mayor and the Executive Secretary to the City Plan Commission, is attached hereto marked Exhibit "B" and made a part hereof by reference.

The Applicant shall sign an agreement to develop the property and to perform all construction thereon in accordance with the approved site development plan and the standards identified in the R-F (Ranch/Farm) District regulations, and all

other requirements set forth in this resolution. Additionally, the applicant is required, upon the City's demand, to dedicate additional right-of-way and improve that portionof the following streets wherever they own the abutting land:

- Winn Road, to 70' of right-of-way with 36' paving.
- Southside Road, to 90' of right-of-way, improved to City standards.

Such agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.

This permit shall automatically terminate if any of said conditions are not complied with and construction shall stop or occupancy shall be discontinued until any such violation ceases.

ADOPTED this 2 day of , 1987.

Mayor ATTEST: 0A 91 I City Clerk

APPROVED AS TO FORM:

stant City Attorney

APPROVED AS TO CONTENT:

Department of Planning, Research and Development

#### AGREEMENT

THE PUBLIC SERVICE BOARD, the Applicant referred to in the above resolution, hereby agrees to develop the above-described property in accordance with the approved site development plan and in accordance with the standards identified in the R-F (Ranch/Farm) District regulations, and subject to all other requirements set forth in this resolution.

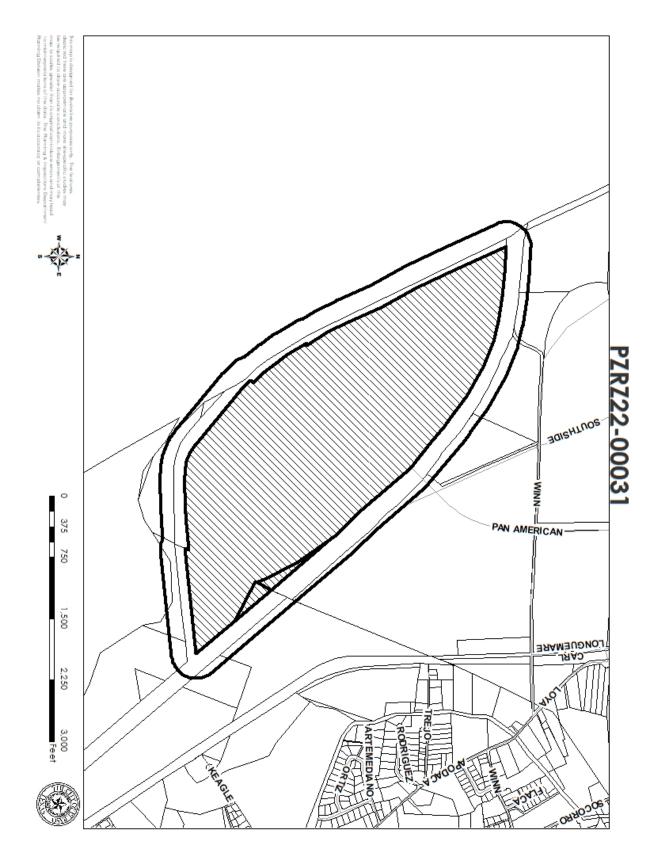
EXECUTED this 3 day of June , 1987. ta Euro PUBLIC SERVICE BOARD

ADDITIONAL SIGNATURES ON NEXT PAGE

THE	STATE	OF	TEXAS	)	
COUN	NTY OF	$\mathbf{EL}$	PASO	)	
day	of		strument	was	acknowledged before me on this <u>3<sup>EP</sup></u> , 1987, by <u>CLINTON E WOLF</u> , on behalf of the PUBLIC SERVICE BOARD,
	CHAIN				_ on behalf of the PUBLIC SERVICE BOARD,
as /	Applica	int.			Midal Bron
Му С	Commiss	ior	Expire	s:	Notary Public, State of Texas
	5-3	1-8	2		MICHAEL J. BROWN Reary Natio, State of Young Ry Count. Bytes Big 28, 18-22

12

ZNG1:SP-87-03





Legislation Text

## File #: 22-1494, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

## DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

### District 2

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Nina Rodriguez, (915) 212-1561

### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

An Ordinance changing the zoning of the south 60 feet of tract 187 and the south 60 feet of the east 90 feet of tract 188, map of Sunrise Acres, City of El Paso, El Paso County, Texas from R-4 (Residential) and C-2 (Commercial) to C-3 (Commercial) and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 8641 Gateway South Boulevard Applicant: R-Avilo, LLC PZRZ22-00019

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: December 13, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553

Nina Rodriguez, (915) 212-1561

**DISTRICT(S) AFFECTED**: District 2

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.2 Set one standard for infrastructure across the city

## SUBJECT:

An Ordinance changing the zoning of the south 60 feet of tract 187 and the south 60 feet of the east 90 feet of tract 188, map of Sunrise Acres, City of El Paso, El Paso County, Texas from R-4 (Residential) and C-2 (Commercial) to C-3 (Commercial) and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 8641 Gateway South Boulevard Applicant: R-Avilo, LLC PZRZ22-00019

## BACKGROUND / DISCUSSION:

The applicant is requesting to rezone to allow for automobiles (sales, storage, and rental) use. City Plan Commission recommended 8-0 to approve the proposed rezoning on November 3, 2022. As of November 15, 2022, the Planning Division received one (1) phone call and one (1) email in support to the rezoning request. See attached staff report for additional information.

## PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? <u>X</u> YES <u>NO</u>

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division **SECONDARY DEPARTMENT:** N/A

**DEPARTMENT HEAD:** 

Philip Tiwe

## ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING OF THE SOUTH 60 FEET OF TRACT 187 AND THE SOUTH 60 FEET OF THE EAST 90 FEET OF TRACT 188, MAP OF SUNRISE ACRES, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-4 (RESIDENTIAL) AND C-2 (COMMERCIAL) TO C-3 (COMMERCIAL), AND IMPOSING CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

Pursuant to Section 20.04.360 of the El Paso City Code, that the zoning of *the south 60 feet of tract 187 and the south 60 feet of the east 90 feet of tract 188, map of Sunrise Acres, located in the City of El Paso, El Paso County, Texas, and as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference, be changed from R-4 (Residential) and C-2 (Commercial) to C-3 (Commercial), as defined in Section 20.06.020, and that the zoning map of the City of El Paso be revised accordingly.* 

Further, that the property described above be subject to the following conditions which are necessitated by and attributable to the health and safety of the community generated by the change of zoning in order to protect the health, safety and welfare of the adjacent property owners and the residents of this City:

- 1. That a ten-foot (10') landscaped buffer with high-profile native or naturalized trees of at least two-inch (2") caliper and ten feet (10') in height shall be placed at twenty feet (20') on center along the property lines adjacent to residential zone districts or uses. The landscaped buffer shall be irrigated and maintained by the property owner at all times and shall be installed prior to the issuance of any certificates of occupancy or certificates of completion.
- 2. Prior to issuance of any certificates of occupancy or certificates of completion, property owner must install an eight-foot (8') rock wall along the westerly property line if abutting residential uses or districts.
- 3. No storage of any motor vehicles shall be located within fifty feet (50') from the rear property line if abutting residential uses or districts.
- 4. Within twenty feet (20') from the front property line abutting Gateway South Boulevard, no parking or vehicular storage or display shall be allowed.
- 5. No repair of any type of motor vehicle shall be allowed on the property.

The penalties for violating the standards imposed through this rezoning ordinance are found in Section 20.24 of the El Paso City Code.

(Signatures on the following page)

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

## THE CITY OF EL PASO

## ATTEST:

Oscar Leeser Mayor

Laura D. Prine City Clerk

## **APPROVED AS TO FORM:**

Joyce Garcia Assistant City Attorney

## **APPROVED AS TO CONTENT:**

Philip Tiwe

Philip F. Etiwe, Director Planning & Inspections Department

(Exhibits on the following pages)

## METES AND BOUNDS DESCRIPTION

8641 SOUTH GATEWAY BOULEVARD EXHIBIT "A"

A PARCEL OF LAND CONTAINING 0.3994 ACRE MORE OR LESS, BEING THE SOUTH 60 FEET OF TRACT 187 AND THE SOUTH 60 FEET OF THE EAST 90 FEET OF TRACT 188, MAP OF SUNRISE ACRES, ACCORDING TO THE PLAT OR MAP RECORDED IN VOLUME 16, PAGE 19, PLAT RECORDS OF EL PASO COUNTY, TEXAS AND BEING THAT PARCEL RECORDED IN DOC. NO. 20180041641, DEED RECORDS, EL PASO COUNTY, AND IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

THE POINT OF BEGINNING BEING A SET 1/2" REBAR MARKING THE NORTHEAST CORNER OF THIS PARCEL, SAID SET 1/2" REBAR LYING ON THE WEST RIGHT OF WAY LINE OF SOUTH GATEWAY BOULEVARD;

THENCE, ALONG SAID WEST RIGHT OF WAY LINE, SOUTH 01'09' 00" EAST A DISTANCE OF 60.00 FEET TO A SET 1/2" REBAR MARKING THE SOUTHEAST CORNER OF THIS PARCEL;

THENCE, LEAVING SAID WEST RIGHT OF WAY LINE, SOUTH 88°51' 00" WEST A DISTANCE OF 290.00 FEET TO A SET NAIL MARKING THE SOUTHWEST CORNER OF THIS PARCEL;

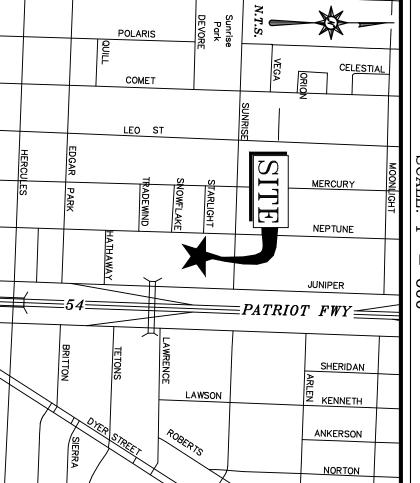
THENCE, NORTH 01'09' 00" WEST, A DISTANCE OF 60.00 FEET TO A FOUND 5/8" REBAR MARKING THE NORTHWEST CORNER OF THIS PARCEL;

THENCE, NORTH 88° 51' 00" EAST, 290.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED AND CONTAINING 17,400.00 SQUARE FEET OR 0.3994 ACRE OF LAND MORE OR LESS.

CARLOS M. JIMENEZ R.P.L.S. #3950

CAD CONSULTING CO. 1790 N. LEE TREVINO DR., STE. 309 EL PASO TX 79936





MAP

LOCATION SCALE: 1" = (

A PARCEL OF LAND CONTAINING 0.3994 ACRE MORE OR LESS, BEING THE SOUTH 60 FEET OF LOT 187 AND THE SOUTH 60 FEET OF THE EAST 90 FEET OF LOT 188, MAP OF SUNRISE ACRES, ACCORDING TO THE PLAT OR MAP RECORDED IN VOLUME 16, PAGE 19, PLAT RECORDS OF EL PASO COUNTY, TEXAS AND BEING THAT PARCEL RECORDED IN DOC. NO. 20180041641, DEED RECORDS, EL PASO COUNTY, AND IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

THE POINT OF BEGINNING BEING A SET 1/2" REBAR MARKING THE NORTHEAST CORNER OF THIS PARCEL, SAID SET 1/2" REBAR LYING ON THE WEST RIGHT OF WAY LINE OF SOUTH GATEWAY BOULEVARD;

THENCE, ALONG SAID WEST RIGHT OF WAY LINE, SOUTH 01.09' 00" EAST A DISTANCE OF 60.00 FEET TO A SET 1/2" REBAR MARKING THE SOUTHEAST CORNER OF THIS PARCEL;

THENCE, LEAVING SAID WEST RIGHT OF WAY LINE, SOUTH 88'51' 00" WEST A DISTANCE OF 290.00 FEET TO A SET NAIL MARKING THE SOUTHWEST CORNER OF THIS PARCEL;

THENCE, NORTH 01'09' 00" WEST, A DISTANCE OF 60.00 FEET TO A FOUND 5/8" REBAR MARKING THE NORTHWEST CORNER OF THIS PARCEL;

THENCE, NORTH 88°51'00" EAST, 290.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED AND CONTAINING 17,400.00 SQUARE FEET OR 0.3994 ACRE OF LAND MORE OR LESS.

OWNER/DEVELOPER: R-AVILLO LLC 1479 VIA APPIA EL PASO, TEXAS 79912 PHONE: (915) 633-6422

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METES

AND 8641 St

D BOUNDS DESCRIPTION SOUTH GATEWAY BOULEVARD EXHIBIT "A"

NOTES: 1. THE LOCATION OF EXISTING UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH SURFACE GROUND MARKINGS, EXCAVATIONS OR UTILITY COMPANY PLANS TO DETERMINE THE EXACT LOCATION OF ANY SUBTERRANEAN USES. 2. THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THERE MAY BE EASEMENTS, OR OTHER MATTERS, NOT SHOWN.

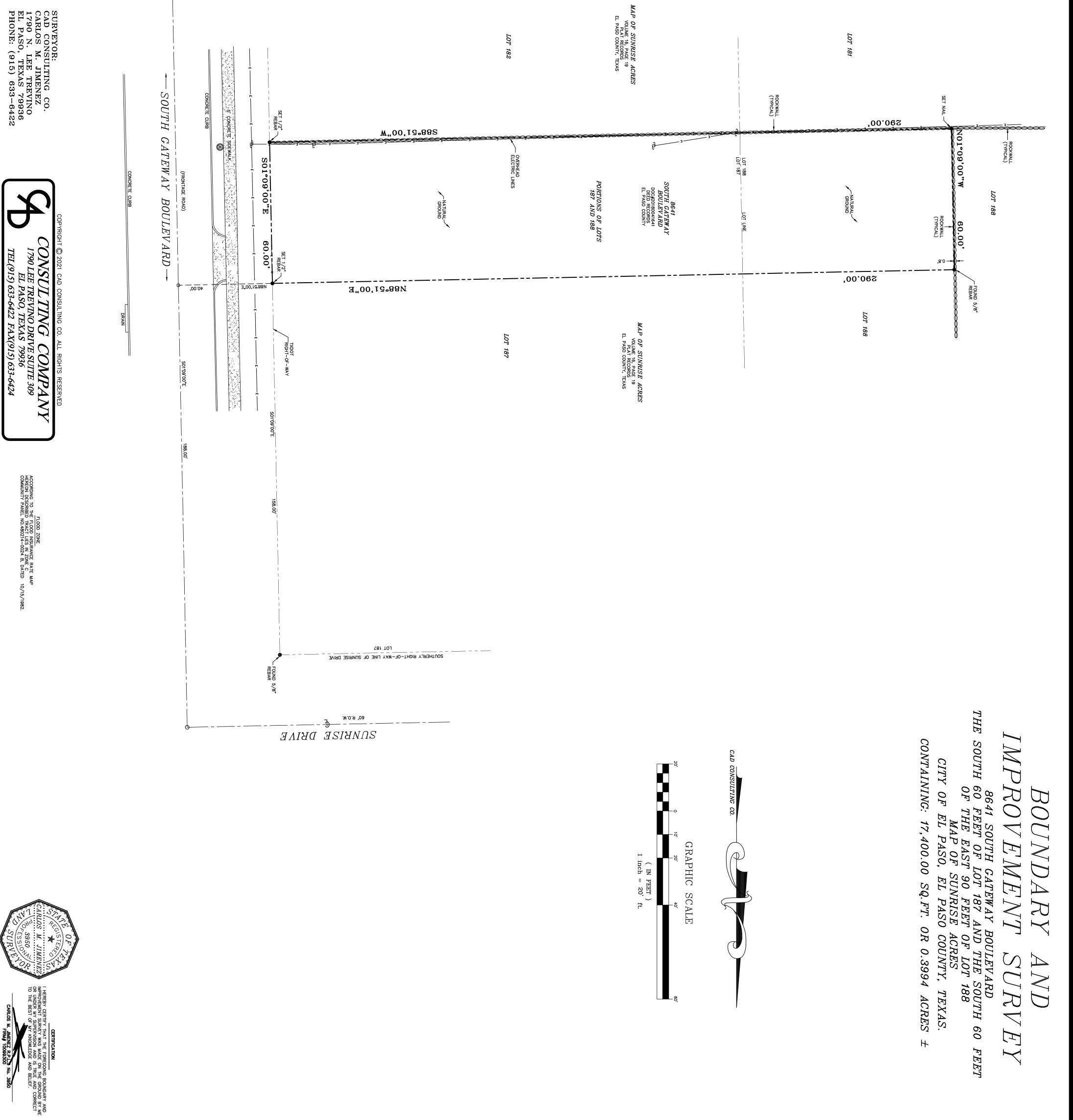
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LEGEND



## 8641 Gateway South Boulevard



City Plan Commission — November 3, 2022

CASE NUMBER:	PZRZ22-00019
CASE MANAGER:	Nina Rodriguez, (915) 212-1561, <u>RodriguezNA@elpasotexas.gov</u>
PROPERTY OWNER:	R-Avilo, LLC
REPRESENTATIVE:	CAD Consulting Co.
LOCATION:	8641 Gateway South Boulevard (District 2)
PROPERTY AREA:	0.40 acres
REQUEST:	Rezone from R-4 (Residential) and C-2 (Commercial) to C-3
	(Commercial)
RELATED APPLICATIONS:	None
PUBLIC INPUT:	One (1) phone call and one (1) email of support received as of
	November 2, 2022

**SUMMARY OF REQUEST:** The applicant is requesting to rezone the subject property from R-4 (Residential) and C-2 (Commercial) to C-3 (Commercial) to allow for automobile (sales, storage, and rental) use.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL WITH CONDITIONS** of the request as the proposed use and rezoning is compatible with surrounding land uses and the G-3, Post-War future land use designation of *Plan El Paso*, the City's adopted comprehensive plan. The conditions are the following:

- 1. That a ten-foot (10') landscaped buffer with high-profile native or naturalized trees of at least two-inch (2") caliper and ten feet (10') in height shall be placed at twenty feet (20') on center along the property lines adjacent to residential zone districts or uses. The landscaped buffer shall be irrigated and maintained by the property owner at all times and shall be installed prior to the issuance of any certificates of occupancy or certificates of completion.
- Prior to issuance of a certificates of occupancy or certificates of completion, property owner must install an eight-foot (8') rock wall along the westerly property line if abutting residential uses or districts.
- 3. No storage of any motor vehicles shall be located within fifty feet (50') from the rear property line if abutting residential uses or districts.
- 4. Within twenty feet (20') from the front property line abutting Gateway South Boulevard, no parking or vehicular storage or display shall be allowed.
- 5. No repair of any type of motor vehicle shall be allowed on the property.



Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting to rezone an approximately 0.40-acre parcel from R-4 (Residential) and C-2 (Commercial) to C-3 (Commercial) to allow automobile (sales, storage, and rental) use. The conceptual plan shows twelve (12) onsite parking spaces in the front of the property and a 2,800 square foot building at the rear of the property. Access to the subject property is provided from Gateway South Boulevard.

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER**: The automobile (sales, service, storage and rental) use, and C-3 (Commercial) district is in character with the commercial district to the south, and is compatible with the areas surrounding the subject property with the proposed conditions. Conditions are being recommended to safeguard any existing residential properties adjacent to the subject property. The property north of the subject property is a vacant lot zoned R-4 (Residential), while the properties to the south are vacant and zoned R-4 (Residential) and C-2/c (Commercial/conditions). To the west, the adjacent property is a single-family dwelling unit zoned R-4 (Residential). The subject property is bound to the east by Patriot Freeway with properties further east of Patriot Freeway being a vacant lot zoned C-1/sc (Commercial/special contract) and a detached single-family dwelling zoned A-2 (Apartment). The rezoning will also expand commercial zoning already present along Gateway South Boulevard, while also serving as a buffer for residential properties behind Gateway South Boulevard to decrease traffic and noise pollution from the freeway. The distance to the nearest school, Magoffin Middle School, is 0.43 miles and the distance to the nearest park, Sunrise Park, is approximately 1.12 miles.

COMPLIANCE WITH PLAN EL PASO/REZONING POLICY – When evaluating whether a				
proposed rezoning is in accordance with <i>Plan El Paso</i> , consider the following factors:				
Criteria	Does the Request Comply?			
<ul> <li>Future Land Use Map: Proposed zone change is compatible with the Future Land Use designation for the property:</li> <li><u>G-3, Post-War</u>: This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.</li> </ul>	Yes. The proposed development is compatible with the future land use designation. The proposed automobile (sales, service, storage, and rental) use is an appropriate commercial use for this land use designation.			
Compatibility with Surroundings: The proposed zoning district is compatible with those surrounding the site: <u>C-3 (Commercial) District</u> : The purpose of the district is to accommodate establishments providing goods and services which are used in support of the community's trade and service establishments and serving multi-neighborhoods within a planning area of the city. The regulations of the district will permit intensities designed to be compatible with each other and to provide for a wide range of types of commercial activity, including light automobile related uses.	Yes. The rezoning is compatible with adjacent property to the south zoned C-2/c (Commercial/conditions) and properties to the east zoned C-1/sp (Commercial/special permit) and A-2 (Apartment). While the properties to the west and north of the subject property are zoned R-4 (Residential), changing the current zoning designation of the subject property will serve as a buffer for residential properties behind Gateway South Boulevard to reduce traffic and noise pollution from the freeway, as well as expand commercial zoning already present along Gateway South Boulevard. The recommended conditions will also serve as a buffer to limit any nuisances that may be created between the proposed and the abutting residential development.			
<b>Preferred Development Locations:</b> Located along an arterial (or greater street classification) or the intersection of two collectors (or greater street	Yes. Access to the subject property is provided by Gateway South Boulevard, a major arterial as classified under the City's Major Thoroughfare Plan. The			

COMPLIANCE WITH PLAN EL PASO/REZONING	POLICY – When evaluating whether a				
proposed rezoning is in accordance with <i>Plan El Paso</i> , consider the following factors:					
classification). The site for proposed rezoning is not located mid-block, resulting in it being the only property on the block with an alternative zoning district, density, use and/or land use.	classification of this road is appropriate for the proposed development. Adjacent properties to the north and east of the subject property along Gateway South Boulevard are zoned commercial. Changing the zoning designation of the subject property will contribute to a consistency of commercial zoning along this block of Gateway South Boulevard.				
THE PROPOSED ZONING DISTRICT'S EFFECT ON THI	E PROPERTY AND SURROUNDING PROPERTY, AFTER				
EVALUATING THE FOLLOWING FACTORS:					
Historic District or Special Designations & Study Area Plans: Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.	This property does not fall within any historic districts, special designations, or study plan areas.				
<b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.	There are no anticipated adverse impacts.				
<b>Natural Environment:</b> Anticipated effects on the natural environment.	The subject property does not involve green field or environmentally sensitive land or arroyo disturbance.				
<b>Stability:</b> Whether the area is stable or in transition.	The area is in transition with nearby properties further north rezoned from R-4 (Residential) to C-2/sp (Commercial/special permit) in 2014 and from R-4 (Residential) to S-D/c/sp (Special District/condition/special permit) in 2016. Properties south of the subject property were rezoned from A-2 (Apartment) to C-2/c (Commercial condition).				
<b>Socioeconomic &amp; Physical Conditions</b> : Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.	Adjacent properties to the south and east of the subject property are zoned commercial. Rezoning the subject property from R-4 (Residential) and C-2 (Commercial) to C-3 (Commercial) will keep the consistency of commercial zoning in this block along Gateway South Boulevard.				

**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** Access to the subject property is provided from Gateway South Boulevard which is classified as a major arterial per the City of El Paso's Major Thoroughfare Plan (MTP) and is appropriate to support the proposed use. Sidewalks are not present for the subject property along Gateway South Boulevard and may be required during development.

**SUMMARY OF DEPARTMENTAL REVIEW COMMENTS:** The Planning and Inspections Department recommends imposing conditions requiring a landscape buffer along property lines abutting residential districts along with a minimum 8-foot privacy fence. The department also recommends restricting storage of any motor vehicles within fifty feet (50') from the rear lot if abutting residential uses or districts, restricting parking or vehicular storage or display within twenty feet (20') from the front property line, and restricting any type of motor vehicle repair from property to mitigate any potential commercial noise and activity effects from the subject property.

**PUBLIC COMMENT:** The subject property lies within the boundaries of the Sunrise Neighborhood Association. Property owners within 300 feet of the subject property were notified of the rezone request on September 8, 2022. As of November 2, 2022, the Planning Division has received one (1) phone call and one (1) email of support (Attachment 5).

### **RELATED APPLICATIONS:** None.

### **CITY PLAN COMMISSION OPTIONS:**

The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

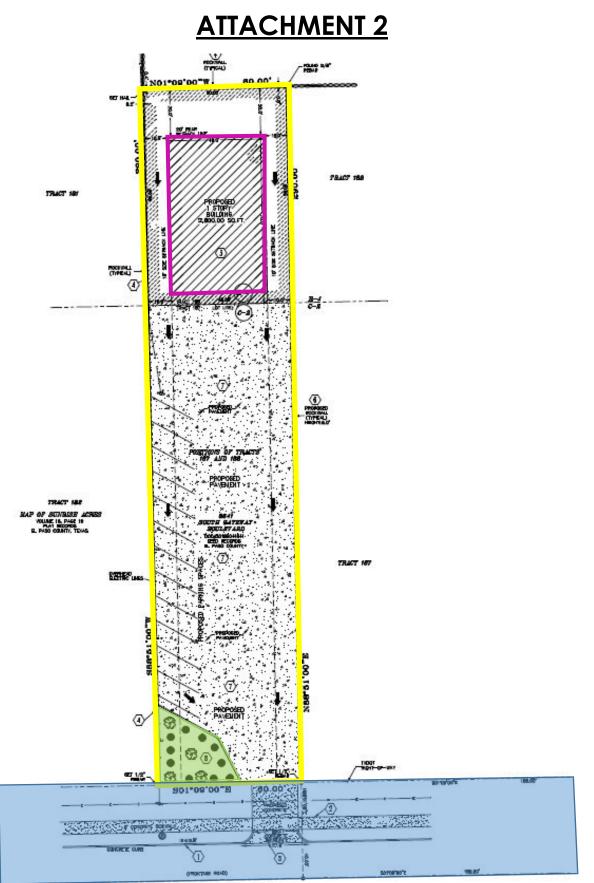
- 1. **Recommend Approval** of the rezoning request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan.
- 2. **Recommend Approval of the rezoning request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan. (Staff Recommendation)
- 3. **Recommend Denial** of the rezoning request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

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### ATTACHMENTS:

- 1. Future Land Use Map
- 2. Generalized Plot Plan
- 3. Department Comments
- 4. Neighborhood Notification Boundary Map
- 5. Sunrise Neighborhood Association Email in Support





- SOUTH CATEWAY BOULEVARD-

### Planning and Inspections Department - Planning Division

The Planning & Inspections Department recommends approval with the following conditions:

- 1. That a ten-foot (10') landscaped buffer with high-profile native or naturalized trees of at least two-inch (2") caliper and ten feet (10') in height shall be placed at twenty feet (20') on center along the property lines adjacent to residential zone districts or uses. The landscaped buffer shall be irrigated and maintained by the property owner at all times and shall be installed prior to the issuance of any certificates of occupancy or certificates of completion.
- 2. Prior to issuance of a certificate<mark>s</mark> of occupancy or certificate<mark>s</mark> of completion, property owner must install an eight-foot (8') rock wall along the westerly property line if abutting residential uses or districts.
- 3. No storage of any motor vehicles shall be located within fifty feet (50') from the rear property line if abutting residential uses or districts.
- 4. Within twenty feet (20') from the front property line abutting Gateway South Boulevard, no parking or vehicular storage or display shall be allowed.
- 5. No repair of any type of motor vehicle shall be allowed on the property.

#### Planning and Inspections Department – Plan Review & Landscaping Division

Recommend approval.

Not reviewed as a Detailed Site Development Plan, submitted plan was reviewed for rezoning purposes only. No objections to the proposed rezoning. At the time of submittal for building permit, the project will need to comply with all applicable provisions of the ICC, TAS and Municipal Code

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### Planning and Inspections Department – Land Development

Recommend approval.

- 1. On site ponding is required in compliance with sections (DSC panel 1-4C-J, 19.19.010A and DDM, 11.1)
- 2. No stormwater runoff shall be allowed to discharge into TXDOT ROW as per TXDOT regulations.

Note: Applicant to coordinate with Land Development at time of building permits.

<u>Fire Department</u> No issue with rezoning.

Police Department

No comments received.

<u>911 District</u> No comments received.

### **Environmental Services**

No comments received.

### **Streets and Maintenance Department**

The Streets and Maintenance Department has no objections. A TIA is not required.

#### Sun Metro

No comments received.

### El Paso Water Utilities

El Paso Water (EPWater) does not object to this request.

The Owner/Developer has entered into a Development Agreement with the El Paso Water to construct, an 8-inch diameter sanitary sewer main to provide service to this property. The Developer's utility contractor is currently installing the required sanitary sewer main which will be available for permanent service once EPWater-PSB issues a Letter of Final Acceptance.

#### **EPWU-PSB Comments**

There is an existing 6-inch diameter water main along Gateway South Blvd., located approximately 12 feet east of the property. This main is available for service.

#### **Sanitary Sewer**

There is an existing 12-inch diameter sanitary sewer main that extends along Sunrise Ave.

#### General

Gateway South Blvd. is a Texas Department of Transportation (TxDOT) right-of-way. All proposed water and sanitary sewer work to be performed within Gateway South Blvd. right-of-way requires written permission from TxDOT.

Application for water and sanitary sewer services should be made 8 to 10 weeks prior to construction work. New service applications are available at 1154 Hawkins, 3rd floor. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater-PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenance.

#### Stormwater:

As per Municipal Code: new developments and redevelopments are required to maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding. The code also encourages the use of nonstructural storm water management such as the preservation of greenspace, water harvesting, and other conservation efforts, to the maximum extent practicable, per Chapter 19.19, Section 19.19.010, and Subparagraph A-2 & A-5.

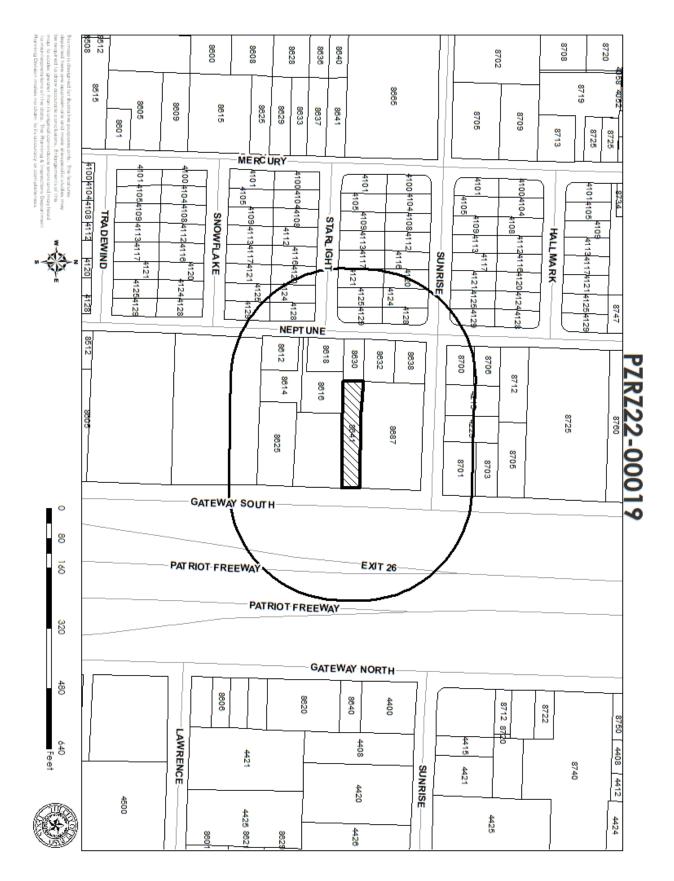
### **Texas Department of Transportation**

Please have the requestor submit grading and drainage plans for review and approval by TxDOT.

Note: Applicant to coordinate with TxDOT at the time of building permits.

### El Paso County Water Improvement District 1

No comments received.



From:Betty HalliburtonTo:Rodriguez, Nina A.; Jose GutierrezSubject:Re: PZDS22-00019 8641 Gateway SDate:Wednesday, October 5, 2022 11:39:09 AMAttachments:image001.png

**CAUTION:** This email originated from outside of the City of El Paso. Do not click links or open attachments unless you recognize the sender and know the content is safe. If suspicious, use **Phish Alert** or forward to **SpamReport@elpasotexas.gov**.

Dear Ms Rodriguez,

The Sunrise Neighborhood Association is in favor of commercial development at 8641 Gateway South. Please don't allow the auto storage to become a salvage for auto-parts yard.

Sincerely, Jose Gutierrez, President Brenda Ness, Vice President BettyAnn Halliburton, Secretary/Treasurer

On Wed, Oct 5, 2022 at 10:40 AM Rodriguez, Nina A. <<u>RodriguezNA@elpasotexas.gov</u>> wrote Good Morning Ms. Halliburton,

I wanted to follow up with you this morning to see how the neighborhood meeting went? Was the neighborhood in support of the rezoning request and proposed use of automobiles (sales, storage, and rental) for 8641 Gateway South?

Respectfully,

Nina Rodriguez

Nina Rodriguez | Planner

Planning & Inspections | City of El Paso

801 Texas Ave. | El Paso, TX 79901

915-212-1561 | RodriguezNA@elpasotexas.gov

ElPasoTexas.gov | Take Our Survey



Legislation Text

## File #: 22-1497, Version: 2

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

## DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

### District 2

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Saul Pina, (915) 212-1612

### AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance changing the zoning for the property described as Lot 135, Sunrise Acres #2, 4645 Vulcan Avenue, City of El Paso, El Paso County, Texas from R-4 (Residential) to A-O (Apartment/Office) and imposing a condition. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 4645 Vulcan Avenue Applicant: Aguilar Pedro M. & Morales Francisca, PZRZ22-00023

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: December 13, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553

Saul Pina, (915) 212-1612

**DISTRICT(S) AFFECTED**: District 2

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

## SUBJECT:

An Ordinance changing the zoning for the property described as Lot 135, Sunrise Acres #2, 4645 Vulcan Avenue, City of El Paso, El Paso County, Texas from R-4 (Residential) to A-O (Apartment/Office) and imposing a condition. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 4645 Vulcan Avenue Applicant: Aguilar Pedro M. & Morales Francisca, PZRZ22-00023

## **BACKGROUND / DISCUSSION:**

The applicant is requesting to rezone from R-4 (Residential) to A-O (Apartment/Office) to allow for the proposed use of apartments. City Plan Commission recommended 5-0 to approve the proposed rezoning on November 3, 2022. As of November 15, 2022, the Planning Division has received one (1) letter in opposition to the rezoning request. See attached staff report for additional information.

## PRIOR COUNCIL ACTION:

N/A

## AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? <u>X</u> YES <u>NO</u>

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division **SECONDARY DEPARTMENT:** N/A

**DEPARTMENT HEAD:** 

Philip Eine

## ORDINANCE NO.

## AN ORDINANCE CHANGING THE ZONING OF LOT 135, SUNRISE ACRES #2, 4645 VULCAN AVENUE, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-4 (RESIDENTIAL) TO A-O (APARTMENT/OFFICE), AND IMPOSING A CONDITION. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

Pursuant to Section 20.04.360 of the El Paso City Code, that the zoning of Lot 135, Sunrise Acres #2, 4645 Vulcan Avenue, located in the City of El Paso, El Paso County, Texas, be changed from R-4 (Residential) to A-O (Apartment/Office), as defined in Section 20.06.020, and that the zoning map of the City of El Paso be revised accordingly.

Further, that the property described above be subject to the following condition which is necessitated by and attributable to the increased density of use generated by the change of zoning in order to protect the health, safety and welfare of the residents of the City:

That a ten-foot (10') landscaped buffer with high-profile native or naturalized trees of at least two-inch (2") caliper and ten feet (10') in height shall be placed at twenty feet (20') on center along the property lines adjacent to residential zone districts or uses. The landscaped buffer shall be irrigated and maintained by the property owner at all times and shall be installed prior to the issuance of any certificates of occupancy.

The penalties for violating the standards imposed through this rezoning ordinance are found in Section 20.24 of the El Paso City Code.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, **2022**.

THE CITY OF EL PASO

## ATTEST:

Oscar Leeser Mayor

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Joyce Garcia Assistant City Attorney

## ORDINANCE NO.

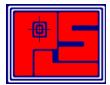
APPROVED AS TO CONTENT:

Philip Elive Philip F. Etiwe, Director

Planning & Inspections Department

Zoning Case No: PZRZ22-00023

22-1007-2997 | 1213095\_2 4645 Vulcan Ave.-Template Rezoning Ordinance Full Lot with Conditions JG



## PRECISION LAND SURVEYORS

10441 VALLE DE ORO DR. El Paso, Texas 79927 Ph# (915) 222-5227

Being all of Lot 135, Sunrise Acres 2, City of El Paso, El Paso County, Texas February 21, 2022;

## METES AND BOUNDS DESCRIPTION

Description of a parcel of land being all of Lot 135, Sunrise Acres #2, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

Commencing for reference at a found city monument nail at the centerline intersection of Vulcan Avenue (60 foot right of way) and Howard Street (60 foot right of way), from which a found nail at centerline intersection of Howard Street and Vesta Loop Court (60 foot right of way) bears North 01°56'38" East a distance of 305.95 feet, thence along Vulcan Avenue centerline, North 88°03'15" West a distance of 345.59 feet to a point, thence leaving said right of way, North 01°56'40" East a distance of 30.00 feet to a point, from which a found 1" iron rod bears North 40°35'32" East a distance of 0.92 feet and the **"TRUE POINT OF BEGINNING**".

Thence, North 88°03'20" West (rec. South 88°49'00" West) a distance of 157.80 feet to a found 1/2" rebar with cap "B&A";

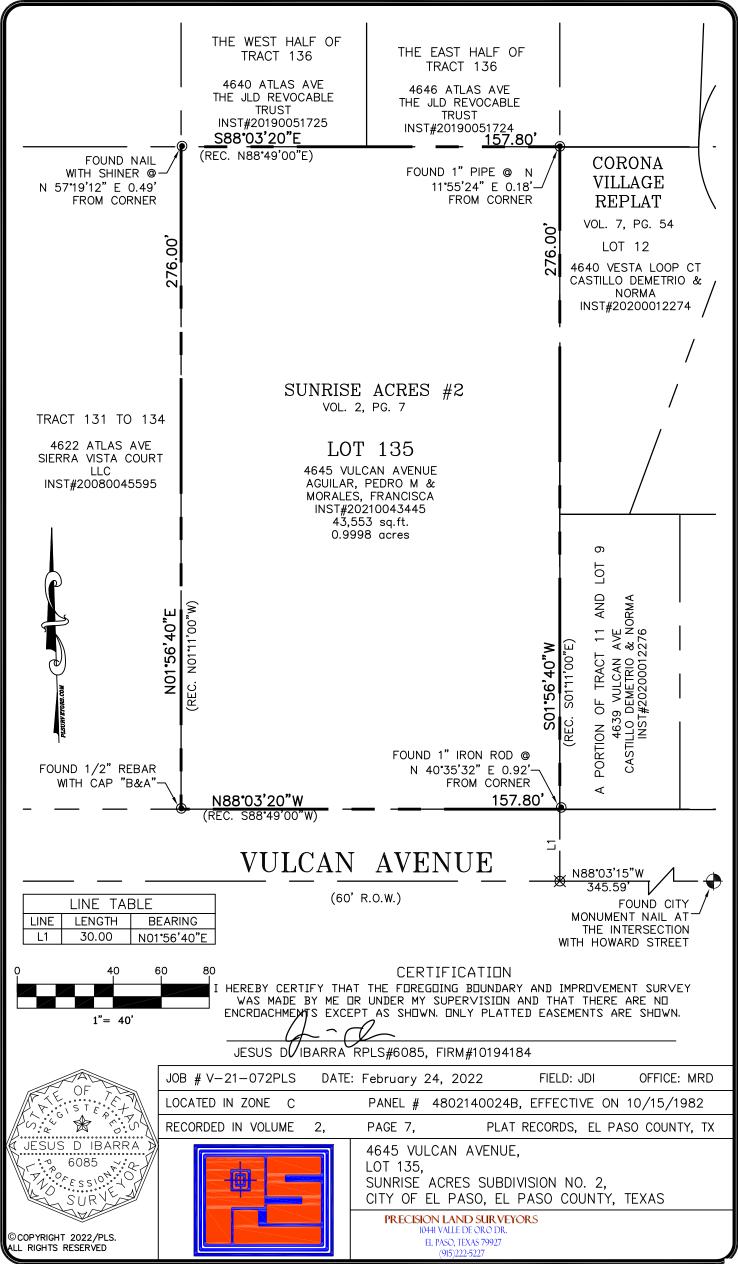
Thence, North 01°56'40" East (rec. North 01°11'00" West) a distance of 276.00 feet to a point, from which a found nail with shiner bears North 57°19'12" East a distance of 0.49 feet;

Thence, **South 88°03'20" East** (rec. North 88°49'00" East) a distance of **157.80 feet** to a point, from which a found 1" pipe bears North 11°55'24" East a distance of 0.18 feet;

Thence, South 01°56'40" West (rec. South 01°11'00" East) a distance of 276.00 feet to "TRUE POINT OF BEGINNING" and containing in all 43,553 square feet or 0.9998 acres of land more or less.

Jusus D. Ibarra, RPLS No.6085 February 21, 2022





## 4645 Vulcan Avenue

CASE NUMBER:

CASE MANAGER:

**REPRESENTATIVE:** 

**PROPERTY AREA:** 

PUBLIC INPUT:

**RELATED APPLICATIONS:** 

LOCATION:

REQUEST:

**PROPERTY OWNER:** 

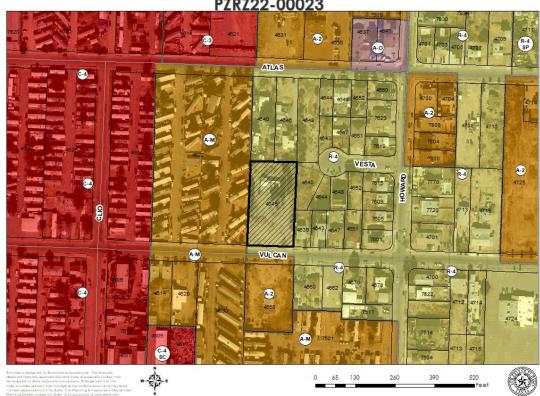
City Plan Commission — November 3, 2022

PZRZ22-00023 Saul Pina, (915) 212-1612, PinaSJ@elpasotexas.gov Aguilar Pedro M. & Morales Francisca Luis Javier Lopez (Vista Del Sol Architectural Design) 4645 Vulcan Ave. (District 2) 1.0 acres Rezone from R-4 (Residential) to A-O (Apartment/Office) None One letter in opposition as of October 27, 2022

SUMMARY OF REQUEST: The applicant is requesting to rezone the subject property from R-4 (Residential) to A-O (Apartment/Office) to allow for the use of apartments.

SUMMARY OF STAFF'S RECOMMENDATION: Staff recommends APPROVAL with a CONDITION of the rezoning request. This recommendation is based on the consistency of the request with Plan El Paso, the City's adopted Comprehensive Plan, for the G-3, Post-War future land use designation. The condition is the following:

That a ten-foot (10') landscaped buffer with high-profile native or naturalized trees of at least two-inch (2") caliper and ten feet (10') in height shall be placed at twenty feet (20') on center along the property lines adjacent to residential zone districts or uses. The landscaped buffer shall be irrigated and maintained by the property owner at all times and shall be installed prior to the issuance of any certificates of occupancy.



PZRZ22-00023

Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting to rezone the subject property from R-4 (Residential) to A-O (Apartment/Office) to allow for one-story apartment buildings. The property is approximately 1.0 acres in size. The conceptual site plan shows seven (7) proposed buildings ranging from 1,370 to 2,055 square feet in size. Most of the proposed buildings will contain two (2) apartment units, with the exception of the 2,050 square foot building which will include three (3) apartment units for a total of fifteen (15) units comprising the site. Per A-O (Apartment/Office) zoning, a maximum density of fifty-eight (58) units is allowed. A 563 square foot administrative office will also be included on site.

The conceptual site plan also shows a parking configuration of twenty-eight (28) parking spaces, nine (9) ADA parking spaces and a minimum of 3 bicycle spaces. The proposed development will count with fifteen (15) apartment units and one (1) administrative office. Main access to the property is proposed from Vulcan Avenue.

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER:** The proposed rezoning is consistent with the various types of residential housing within the area. Properties to the north include single-family dwellings zoned R-4 (Residential); properties to the south include single family dwellings zoned A-2 (Apartment); properties to the east include single-family dwellings zoned R-4 (Residential) and properties to the west include mobile homes (single-family) zoned A-M (Apartment/Mobile Home Park). The nearest school, Sunrise Mountain Elementary School, is 0.6 miles and the nearest park, Wainwright Park, is 1.0 miles in proximity to the site.

Plan El Paso, consider the following factors:					
Criteria	Does the Request Comply?				
<ul> <li>Future Land Use Map: Proposed zone change is compatible with the Future Land Use designation for the property:</li> <li><u>G-3, Post-War</u>: This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.</li> </ul>	Yes. The proposed development is compatible with the future land use designation as it will integrate with the mixed residential housing types and nearby commercial establishments within the area.				
<b>Compatibility with Surroundings:</b> The proposed zoning district is compatible with those surrounding the site: <u>A-O (Apartment/Office) District</u> : The purpose of these districts is to promote and preserve residential development within the city associated with a landscape more urban in appearance and permitting a mixture of housing types. It is intended that the district regulations allow for medium densities of dwelling units supported by higher intensity land uses located at the periphery of single-family neighborhoods providing that the overall character and architectural integrity of the neighborhood is preserved. The regulations of the districts will permit building types designed for transition from areas of low density residential neighborhoods to other residential areas, and certain nonresidential uses and support facilities.	Yes. The proposed zoning is compatible with surrounding zoning as the proposed medium-density use will integrate with the various types of residential zoning found in the area.				

# **REZONING POLICY** – When evaluating whether a proposed rezoning is in accordance with *Plan El Paso*, consider the following factors:

<b>REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with</b>					
Plan El Paso, consider the following factors:					
<b>Preferred Development Locations:</b> Located along an arterial (or greater street classification) or the intersection of two collectors (or greater street classification). The site for proposed rezoning is not located mid-block, resulting in it being the only property on the block with an alternative zoning district, density, use and/or land use.	Yes. The subject property has access to Vulcan Avenue, which is designated as a local road in the City's Major Thoroughfare Plan. The classification of this road is appropriate for the proposed development as it connects to other residential neighborhoods and nearby commercial establishments on the area.				
THE PROPOSED ZONING DISTRICT'S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:					
Historic District or Special Designations & Study Area Plans: Any historic district or other special designations that may be applicable. Any adopted small area plans, including land-use maps in those plans.	None. The property is not located within any historic districts nor any other special designation areas.				
<b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.	None. There are no anticipated adverse impacts.				
<b>Natural Environment:</b> Anticipated effects on the natural environment.	None. The subject property does not involve green field or environmentally sensitive land or arroyo disturbance.				
Stability: Whether the area is stable or in transition.	Yes. The area is in transition to mixed residential zoning. In the last 10 years, nearby areas have changed zoning from R-4 (Residential) to A-2 (Apartment), R-MU (Residential Mixed Use) to R-4 (Residential), and R-4 (Residential) to R-MU (Residential Mixed Use) to permit various types of residential uses in the area.				
<b>Socioeconomic &amp; Physical Conditions</b> : Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.	None.				

**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** Primary access is proposed from Vulcan Avenue, a road classified as local on the City of El Paso's Major Thoroughfare Plan (MTP) and is adequate for the proposed development. There are existing sidewalks along Vulcan Avenue that provide pedestrian access to the site. The closest bus stop, located on Dyer Street, is 0.50 miles in proximity to the proposed development.

**SUMMARY OF DEPARTMENTAL REVIEW COMMENTS:** No adverse comments were received for the rezoning request from the reviewing departments.

**PUBLIC COMMENT:** The subject property lies within the Mountain View Neighborhood Association and Logan Sunrise Neighborhood Association. The applicant contacted all neighborhood associations prior to November 3, 2022. Notices were sent to property owners within 300 feet of the subject property on October 19, 2022. As of October 27, 2022, the Planning Division has received one (1) letter in opposition to the rezoning request.

### **CITY PLAN COMMISSION OPTIONS:**

The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

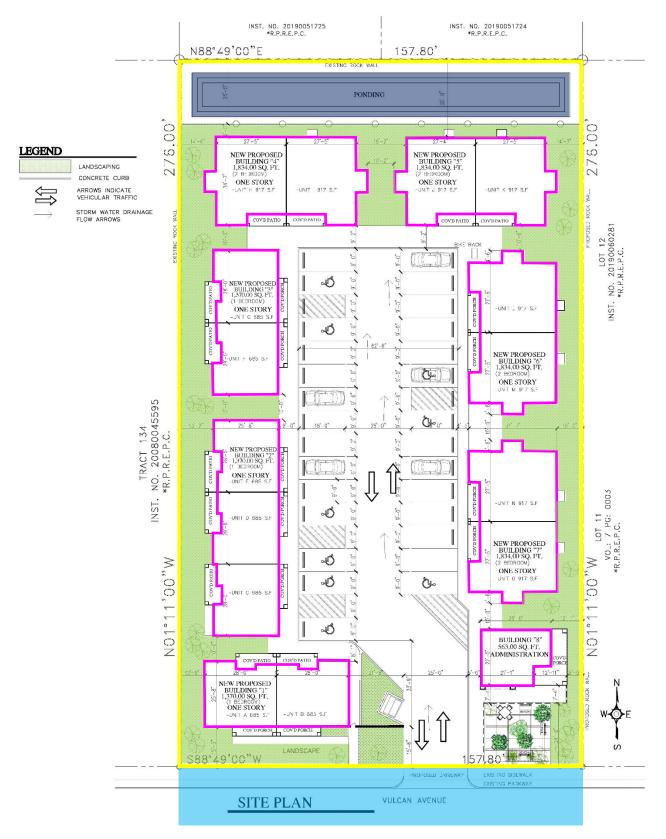
- 1. **Recommend Approval** of the rezoning request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan.
- 2. **Recommend Approval of the rezoning request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan. (Staff Recommendation)
- 3. **Recommend Denial** of the rezoning request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

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### ATTACHMENTS:

- 1. Future Land Use Map
- 2. Conceptual Site Plan
- 3. Department Comments
- 4. Neighborhood Notification Boundary Map
- 5. Public Input





#### **Planning and Inspections Department - Planning Division**

Staff recommends approval of the rezoning request with the following condition:

That a ten-foot (10') landscaped buffer with high-profile native or naturalized trees of at least two-inch (2") caliper and ten feet (10') in height shall be placed at twenty feet (20') on center along the property lines adjacent to residential zone districts or uses. The landscaped buffer shall be irrigated and maintained by the property owner at all times and shall be installed prior to the issuance of any certificates of occupancy.

#### Planning and Inspections Department – Plan Review & Landscaping Division

Recommend approval. No objections to the proposed rezoning.

At the rime of submittal for building permit, the project will need to comply with all applicable provisions of the ICC, TAS and Municipal Code.

### Planning and Inspections Department – Land Development

Recommend approval. No objections to rezoning plan.

#### Fire Department

No adverse comments.

<u>Police Department</u> No comments/concerns regarding the zoning.

### **Environmental Services**

No comments received.

#### **Streets and Maintenance Department**

Recommend approval. No objections to the rezoning.

A Traffic Impact Analysis (TIA) is not required. This application does not meet the criteria to require a TIA per Section 19.18.010(B)(1) of the El Paso Municipal Code.

#### Sun Metro

No comments received.

### El Paso Water

El Paso Water (EPWater) does not object to this request.

#### Water:

There is an existing 8-inch diameter water main that extends along Vulcan Avenue located approximately 20-feet east from the property. This main is available for service.

EPWater records indicate an active ¾-inch domestic water meter serving the subject property. The service address for this meter is 4645 Vulcan Avenue.

Previous water pressure from fire hydrant #2529 located 454-feet east of the intersection of Clio Street and Vulcan Avenue has yielded a static pressure of 85 psi, a residual pressure of 75 psi and a discharge of 1,087 gallons per minute. The owner should, for his own protection and at his own expense, install at the discharge side of each water meter a pressure regulator, strainer, and relief valve, to be set for pressure as desired by the customer. The Owner shall be responsible for the operation and maintenance of the above-described water pressure regulating device.

#### Sanitary Sewer:

There is an existing 8-inch diameter sanitary sewer main that extends along Vulcan Avenue located approximately 35-feet south from the property. This main is available for service.

#### General:

An application for additional water and sanitary sewer services should be made 6 to 8 weeks prior to construction to ensure water for construction work. New service applications are available at 1154 Hawkins, 3rd floor. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater-PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

#### Stormwater:

EPWater-SW has no objections to this proposal; there is a pond in the rear and there is plenty of green space that can be recessed and used to retain storm sewer

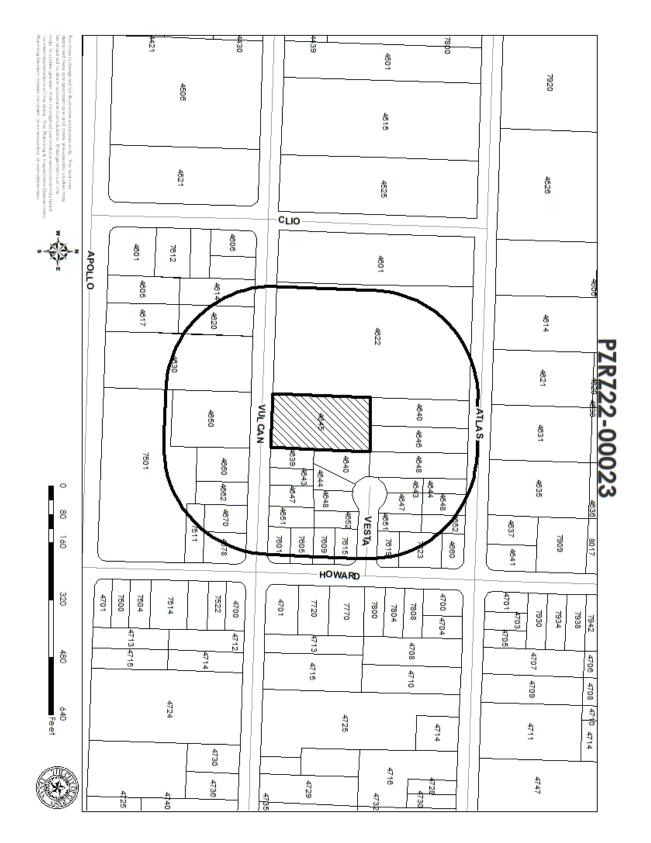
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#### **Texas Department of Transportation**

No comments received.

### El Paso County Water Improvement District #1

The attached item is not within the boundaries of EPCWID1.



Case: PZRZ22-00023 - 4645 Vulcan Ave

October 27, 2022

To: Philip F. Etiwe, Director. Planning and Inspections Department.

CC. To: Saul J.G. Pina, Planner, Planning and Inspections Department.

CONCERN: Over the change of zoning on the property on 4645 Vulcan Avenue

from R-4 (Residential) to A-O (Apartment/Office) schedule for a hearing on Nov 3, 2022.

Case: PZRZ22-00023 - 4645 Vulcan Ave.

I, <u>Gregorio Jaramillo</u>, owner and resident of the properties on 4651 Vulcan Ave and 4652 Vesta Loop, both of them located only three houses down from where the proposed change will take place want to express my concern and position on this proposed change.

I am opposed to this change. For the simple reason that it will devaluate our established residential properties. And it will bring more people, traffic, and demands on utilities and school resources.

I am definitively opposed to accept, to have an apartment complex and/or offices next to my house that I have worked for, to keep and improve for the past 35 years, since March of 1987, and after paying my mortgage of 30 years. I am a 67 year old man that has worked my whole life to be able to have this home.

I just hope that the director, the planner, and all the people involved in making this decision will take in consideration the interest of all residents in this established neighborhood and pass a decent resolution in benefit of all the residents of this community.

Attentively,

GREGORIO JARAMILLO

Ph. (915) 274-4038 Email: gjaramillo1955@gmail.com

(Feel free to contact me)



Legislation Text

## File #: 22-1505, Version: 1

## CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

## DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.* 

All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Fire, Chief Jonathan P. Killings, (915) 493-5609

### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* **The linkage to the Strategic Plan is subsection: 2.3 - Increase public safety operational efficiency.** 

Discussion and action on the request that the City Manager be authorized to sign an agreement to provide baseline physical exams services for the City's Fire Department between the City of El Paso ("City") and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers; contract 2023-0183 Baseline Physical Exams for Firefighters for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$645,862.50.

Contract Variance:

The difference based in comparison to the previous contract for a six-month period is as follows: An increase of \$285,951.96, which represents a 79.45% increase due to higher rates for testing.

This is a Non-Competitive, service contract.

The Purchasing & Strategic Sourcing and the Fire Departments recommend award as indicated to Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: NA

## CONTACT PERSON(S) NAME AND PHONE NUMBER:

Jonathan P. Killings, Interim Fire Chief, (915) 493-5609 Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

## DISTRICT(S) AFFECTED: All

**STRATEGIC GOAL:** 2 – Set the Standard for a Safe and Secure City

**SUBGOAL:** 2.3 – Increase public safety operational efficiency.

# SUBJECT:

Request that the City Manager be authorized to sign an agreement to provide baseline physical exam services for the City's Fire Department between the City of El Paso ("City") and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers; contract 2023-0183 Baseline Physical Exams for Firefighters for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$645,862.50.

# BACKGROUND / DISCUSSION:

The Baseline Physical Exams are for uniformed fire department employees in accordance with guidelines established in the CBA, and the Fire Service Joint Labor Management Wellness-Fitness Initiative, and NFPA 1582 Standard on Comprehensive Occupational Medical Program for Fire Departments.

# **SELECTION SUMMARY:**

This is a non-competitive procurement pursuant to Section 252.022(a)(2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents. These services are essential to the public safety of our community to continue providing services to EPFD uniformed employees.

# CONTRACT VARIANCE:

The difference based in comparison to the previous contract for a six month period is as follows: An increase of \$285,951.96, which represents a 79.45% increase due to higher rates for testing.

# PROTEST

No protest received for this requirement.

# PRIOR COUNCIL ACTION:

NA

# AMOUNT AND SOURCE OF FUNDING:

Amount: \$645,862.50 Funding Source: 322-1000-521120-22120-P2222 Account: General Funds

# HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? <u>X</u> YES NO

2023-0183 Baseline Physical Exams for Firefighters Revised 2/23/2022-V2 – Previous Versions Obsolete **DEPARTMENT HEAD:** 

Jonathan P. Killings, Interim Fire Chief, (915) 493-5609

# COUNCIL PROJECT FORM (Non-competitive)

Please place the following item on the **<u>CONSENT</u>** agenda for the Council Meeting of November 22, 2022.

# Strategic Goal 2: Set the Standard for a Safe and Secure City

The linkage to the Strategic Plan is subsection: 2.3 – Increase public safety operational efficiency.

Request that the City Manager be authorized to sign an agreement to provide baseline physical exams services for the City's Fire Department between the City of El Paso ("City") and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers; contract 2023-0183 Baseline Physical Exams for Firefighters for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$645,862.50.

# Contract Variance:

The difference based in comparison to the previous contract for a six month period is as follows: An increase of \$285,951.96, which represents a 79.45% increase due to higher rates for testing.

This is a Non-competitive, service contract.

The Purchasing & Strategic Sourcing and the Police Departments recommend award as indicated to Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers.

Additionally, it is requested that the City Attorney's Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

# RESOLUTION

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

**THAT** the City Manager be authorized to sign an agreement to provide baseline physical exams services for the City's Fire Department between the City of El Paso ("City") and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers; contract 2023-0183 Baseline Physical Exams for Firefighters for a six (6) month term from the date this Agreement is approved by the City Council, for a total amount of \$645,862.50.

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2022.

CITY OF EL PASO:

Oscar Leeser, Mayor

ATTEST:

Laura D. Prine, City Clerk

APPROVED AS TO FORM:

Suar S. Gonzalez

Assistant City Attorney

#### APPROVED AS TO CONTENT

Claudia X. Garcia, Interim Director Purchasing & Strategic Sourcing

APPROVED AS TO CONTENT

Jonathan P. Killing, Interim Fire Chief Fire Department

STATE OF TEXAS	)	PROFESSIONAL SERVICE AGREEMENT
	)	FOR BASELINE PHYSICAL EXAMS FOR
COUNTY OF EL PASO	)	FIREFIGHTERS FOR THE FIRE DEPARTMENT

This physical exams and drug testing screening services agreement (this "*Agreement*") is entered into this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_ (the "*Effective Date*") by and between the City of El Paso, a home rule municipal corporation (the "*City*"), and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers a Texas Company (the "*Company*").

# <u>recitals</u>

**WHEREAS,** pursuant to Article XXIV, Section Ib. of the Collective Bargaining Agreement dated December 13, 2011 between the City and Local 51, International Association of Fire Fighters, Inc. the City shall provide mandatory baseline physicals for employees annually; and

**WHEREAS**, National Fire Protection Association's publication NFPA 1582: Standard 011 Comprehensive Occupational Medical Program for Fire Departments recommends that the schedules for baseline physicals be organized by firefighters' age groups; and

WHEREAS, the City selected Company to provide the professional services on the basis of Company's demonstrated competence and qualifications to perform the services for a fair and reasonable price for 2023-0183; and

**WHEREAS,** the Service Provider possesses the qualifications, certifications, credentials, experience, and expertise to perform said baseline physical exam services for the City; and

**WHEREAS**, the City desires to engage the Service Provider to provide baseline physical exams for Fire Department firefighters according to the schedules provided by the City.

**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:

# <u>A G R E E M E N T</u>

**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 I. TERM**. The effective date of this Agreement is \_\_\_\_\_\_, 2022 and will remain in effect thereafter for six (6) months from the effective date of this Agreement.

**SECTION II. SCOPE OF SERVICES**. The Service Provider hereby agrees to perform baseline physical services in accordance with the specifications (Exhibit A) and the Proposal submitted by the Service Provider. The scope of services identified and Proposal and clarified by this Agreement shall be referred to collectively as the "Services." All services shall be performed with reasonable care, skill, and diligence as would be practiced by the medical and scientific community within the County of El Paso,

## Texas.

The Service Provider will devise, implement, and operate a program for performing Baseline Screenings and General Fitness Assessments for the City's Firefighters according to the schedule for examinations by age group, attached hereto as Exhibit C. The Service Provider will provide the following services to the Fire Department's firefighters as described in the specifications based on the schedule for examinations: Level I. Baseline Screenings; Level II. Comprehensive Examinations; and Level III General Fitness Assessments. The Service Provider shall also assist the Fire Department Peer Fitness Trainers for Fire Department personnel in the design, administration, and monitoring of fitness programs. In the case of an injury or long-term illness the Service Provider shall prescribe and provide fitness or rehabilitation services.

Firefighters are scheduled for their annual physicals by their respective Battalion Chiefs in the Field Operations Division and by their Division Chiefs in the 40-hour sections of the Department. This ensures that supervisors can account for full compliance with the mandatory annual baseline physicals requirement as specified in the Collective Bargaining Agreement dated December 13, 2011. Fire Fighters will be referred to rehabilitation at the Fire Chiefs discretion or by the recommendation made by the Service Provider after an annual physical assessment. Rehabilitation will be used for incumbent Fire Fighters needing physical fitness improvement or Incumbent Fire Fighters needing rehabilitation services for off the job injuries are not part of the services provided under this Agreement.

**SECTION III. COMPLETION OF SERVICES.** The Service Provider understands that time is of the essence in completing the Services. Failure of the Service Provider to meet the specified time for completion of Services shall be cause for termination pursuant to Section XIV of this Agreement.

**SECTION IV. NON-EXCLUSIVE AGREEMENT.** This Agreement is non-exclusive. The City shall be entitled to enter into other agreements for the Services with other properly selected individuals or businesses that qualify to provide the Services.

**SECTION V. PRE-REQUISITE TO AGREEMENT.** The Service Provider shall comply with applicable state and local licenses, certifications, and other qualification requirements as a prerequisite to entering into this Agreement.

**SECTION VI. LOCATION OF PERFORMANCE**. The Company shall perform the Services in the City and County of El Paso, Texas or such other place(s) as may be necessary to fulfill the terms of this Agreement.

**SECTION VII. REPRESENTATIONS OF THE COMPANY**. The Company represents, warrants, and agrees as follows:

- A. It will comply with all applicable federal, state, and local government laws, rules, regulations and all provisions of the City of El Paso Charter and the El Paso City Code, now existing or as may be amended, in the performance of its duties under this Agreement.
- B. The Service Provider, including each individual physician and all other healthcare providers employed by the Service Provider and performing the services for the City, shall at all times during the performance of this Agreement maintain the licenses, certifications required by any applicable statute, ordinance, rule or regulation of any regulatory body having jurisdiction over the conduct of its operations hereunder. The Service Provider warrants that it is duly authorized

and licensed to perform its duties hereunder in the jurisdiction in which it will act. It further warrants that its employees shall maintain all required professional licenses during the term of this Agreement. If the Service Provider receives notice from a licensing authority of a suspension or revocation of a license of the Service Provider's employee(s), the Service Provider shall immediately remove such employee from performing any further services under this Agreement until such license is reinstated and in good standing and within 72 hours, notify the City of such actions. If the Service Provider fails to maintain such licenses or fails to remove any employee who performs services under this Agreement whose license has expired or been revoked or suspended, the City shall be entitled, at its sole discretion, to immediately terminate this Agreement upon written notice to the Service Provider. It further warrants that its employees shall maintain all required professional licenses and/or certifications during the term of this Agreement. If the Service Provider receives notice from a licensing or certification authority of a suspension or revocation of a license or certification of the Service Provider's employee(s). the Service Provider shall immediately remove such employee from performing any further services under this Agreement until such license or certification is reinstated and in good standing and within 72 hours, notify the City of such actions. If the Service Provider fails to maintain such licenses or certifications or fails to remove any employee who performs services under this Agreement whose license or certification has expired or been revoked or suspended, the City shall be entitled, at its sole discretion, to immediately terminate this Agreement upon written notice to the Service Provider.

- C. All individual physicians who will perform the examination services and physiologist clinicians or healthcare providers who will administer the physical fitness program under this Agreement shall have knowledge of the fire service job requirements and fit-for-duty expectations according to Section 4.2 of the National Fire Protection Association's publication NFPA 1582: Sta11dard on Comprehensive Occupational Medical Program/or Fire Departments and NFPA 1583: Standard on Health Related Fitness Programs for Fire Department Members. The Service Provider's Organizational Chart is attached hereto as Exhibit D. The City shall be informed of any changes to the Organizational Chart so that the City Manager may approve the qualifications of the different or additional Service Provider's personnel. Despite the City Manager's approval, the City shall in no event be obligated to any third party.
- D. The Service Provider shall not in any fashion discriminate in the performance of this Agreement against any person because of race, color, religion, national origin, sex, age, disability, political belief, sexual orientation or affiliation.

**SECTION VIII. COMPENSATION AND METHOD OF PAYMENT**. The City shall pay the Service Provider for each test and rehabilitation session conducted at the rates set forth in the Proposal Cost attached hereto as Exhibit B. The Service Provider services shall be limited to those services delineated in the Section III of this Agreement. It is understood and agreed that the City shall not be liable for any costs that exceed the amount of this Agreement without the prior written approval of the City Manager and compliance with applicable competitive bidding laws and City policies. Said approval must be obtained prior to the Service Provider commencing the services that will result in the cost overrun.

The parties acknowledge and agree that the award of this Agreement is dependent upon the availability of funding. In the event that funds do not become available, the Agreement may be terminated, with a 30-day written notice to the Service Provider by the City. In such an event, the City shall incur no penalty or charge.

The Service Provider shall submit a monthly invoice to the Fire Department for each month in which a baseline physical, general fitness assessments, and rehabilitation sessions are conducted according

to this Agreement. Invoices shall not be submitted more frequently than once per month. The services are to be provided according to schedule in Exhibit C and Section III. All invoices shall be made in writing and shall specify the number of physicals, assessments, and rehabilitation sessions conducted. Invoices shall be delivered to the Chief of Fire.

**SECTION IX. INDEPENDENT SERVICE PROVIDER**. Nothing herein shall be construed as creating a relationship of employer and employee between the parties hereto. The Service Provider agrees to be responsible for its own acts and omissions and those of its subordinates and employees in the performance of any material services under this Agreement. The Service Provider is an independent Service Provider and nothing contained herein shall constitute or designate the Service Provider or any of his employees as employees of the City. Neither the Service Provider nor his employees shall be entitled to any of the benefits established for City employees, nor be covered by the City's Workers' Compensation Program.

**SECTION X. MEDICAL RECORDS AND CONFIDENTIALITY OF RECORDS.** The Service Provider recognizes that all information and materials received in connection with this Agreement shall be kept in the strictest confidence. All medical screenings shall be City property for the life of this Agreement. The Service Provider shall keep the records for the life of this Agreement and shall follow the regulations according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all subsequent amendments. The Service Provider shall follow the Business Associate Agreement which attached hereto and incorporated to this Agreement through Exhibit C. Upon termination of this Agreement all records shall be transferred to the City within ten (10) business days of termination at the City's sole expense of such transfer.

**SECTION XI. INSPECTIONS & AUDITS**. The City shall have the right to perform, or cause to be performed: (1) audits of the books and records of the Company; and (2) inspections of all places where work is undertaken in connection with this Agreement. The Company shall be required to keep such books and records available for such purpose for at least five (5) years after its performance under this Agreement ceases. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.

**SECTION XII. OWNERSHIP**. All files and documents generated by Company as a result of its activity under this Agreement shall remain at all times the property of the City.

**SECTION XIII. INSURANCE REQUIREMENTS.** With no intent to limit the Company's liability or the indemnification provisions set forth hereinafter, the Company shall provide and maintain the following insurance in full force and effect at all times during the term of this Agreement and any extensions thereto. The City shall be provided with certificates of insurance evidencing the required insurance prior to the Effective Date of this Agreement and thereafter with certificates evidencing renewal or replacement of said policies of insurance at least fifteen (15) days prior to the expiration or cancellation of any such policies.

# A. INSURANCES

1. **Worker's Compensation.** A third-party policy of Workers' Compensation insurance coverage providing Statutory Benefits according to the Workers Compensation Act of the State of Texas and/or any other state or federal law as may be applicable to the work and shall cover all of the persons engaged in the work.

# 2. Commercial Liability, Property Damage Liability and Vehicle Liability Insurance. The

Company shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Vehicle Liability Insurance as shall protect the Company and the Company's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from services performed under this Agreement, whether such services be performed by the Company or by anyone directly employed by the Company. The minimum limits of liability and coverage shall be as follows:

# a) <u>Commercial General Liability</u> Personal Injury or Death

\$1,000,000 for each person \$1,000,000 in the aggregate

# **Property Damage**

\$1,000,000 for each occurrence \$1,000,000 in the aggregate

- b) <u>Vehicle Liability</u> Combined Single Limit \$1,000,000 per accident
- **B. ERRORS AND OMISSIONS LIABILITY INSURANCE.** The Company shall procure and maintain, at the Company's sole expense, Professional Liability Insurance (Such as errors and omissions insurance) for the benefit of the City to cover the errors and omissions of the Company, its principals or officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS (\$1,000,000) on a claims made basis.
- C. **FORM OF POLICIES.** The insurance required herein may be in one or more policies of insurance, the form of which must be approved by the City's Risk Manager.
- **D. ISSUERS OF POLICIES.** The issuer of any policy must have a certificate of authority to transact insurance business in the State of Texas. Each issuer must be responsible, reputable, and have financial capability consistent with the risks covered. Each issuer shall be subject to approval by the City's Risk Manager in his sole discretion as to conformance with these requirements.
- E. **INSURED PARTIES**. Each policy, except those for Workers' Compensation and Employer's Liability, must name the City of El Paso (and their elected and appointed officials, officers, agents and employees) as Additional Insured parties on the original policy and all renewals or replacements during the term of this Agreement.
- F. MATERIAL CHANGE IN POLICY(IES). Prior to any material change in any policy required herein, the City will be given sixty (60) days advance written notice by registered mail. Further, the City will be immediately notified of any reduction or possible reduction in aggregate limits of any such policy where such reduction, when added to any previous reductions, would exceed twenty-five percent (25%) of the aggregate limits.
- **H. CANCELLATION.** Each policy must expressly state that it may not be canceled or nonrenewed unless sixty (60) days advance notice of cancellation or intent not to renew is given in writing to the City's Purchasing Director by the insurance company. The Company shall also give written notice to the City's Purchasing Director within fifteen (15) days of the date upon which total claims by any party against the Company reduce the aggregate amount of coverage

below the amounts required by this Agreement.

I. DELIVERY OF POLICIES. The originals of all policies referred to above, or copies thereof certified by the agent or attorney-in-fact issuing them together with written proof that the premiums have been paid, shall be deposited by the Company with the City's Purchasing Director prior to beginning work under this Agreement, and thereafter before the beginning of each subsequent year of the term of this Agreement. Notices and Certificates required by this clause shall be provided to:

City of El Paso Purchasing and Strategic Sourcing Department Attn: Purchasing Director 300 N. Campbell El Paso, Texas 79901

Notwithstanding the termination notice provisions in this Agreement, the failure of the Company to provide the City's Purchasing Director with the above proof of insurance prior to beginning work and thereafter prior to the beginning of each year of the term of this Agreement, shall constitute a default on the part of the Company entitling the City, upon three (3) days written notice to the Company to terminate this Agreement. This default provision shall also apply to the proof of insurance requirements under circumstances where a policy is canceled or expires during a given year of the Agreement. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that the Company, throughout the term of this Agreement, continuously and without interruption, maintain in force the required insurance coverage set forth above. Failure of the Company to comply with this requirement shall constitute a default of the Company allowing the City, at its option, to terminate this Agreement as referenced above.

SECTION XIV. INDEMNIFICATION. THE COMPANY OR ITS INSURER SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS ELECTED OFFICIALS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF THE CITY, INDIVIDUALLY OR COLLECTIVE, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH OF PROPERTY DAMAGE, MADE UPON THE CITY DIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO THE COMPANY'S ACTIVITIES UNDER THIS AGREEMENT FOR THIRD PARTY CLAIMS ADMINISTRATION AND MEDICAL COST CONTAINMENT, INCLUDING ANY ACT OR OMISSION BY THE COMPANY, ITS AGENTS, EMPLOYEES OR SUBCONTRACTORS WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL, WITHOUT HOWEVER, WAIVING AND GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY PERSON OR ENTITY. WITHOUT MODIFYING THE CONDITIONS OF PRESERVING, ASSERTING, OR ENFORCING ANY LEGAL LIABILITY AGAINST THE CITY AS REQUIRED BY THE CITY CHARTER OR ANY LAW, THE CITY WILL PROMPTLY FORWARD TO THE COMPANY EVERY DEMAND, NOTICE, SUMMONS OR OTHER PROCESS RECEIVED BY THE CITY IN ANY CLAIM OR LEGAL PROCEEDING CONTEMPLATED HEREIN. IN ADDITION. THE COMPANY SHALL PROMPTLY ADVISE THE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY OR THE COMPANY KNOWN TO THE COMPANY RELATED TO OR ARISING OUT OF THE COMPANY'S ACTIVITIES UNDER THIS AGREEMENT. THE COMPANY WILL: 1) INVESTIGATE

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OR CAUSE THE INVESTIGATION OF ACCIDENTS OR OCCURRENCES INVOLVING SUCH INJURIES OR DAMAGES; 2) NEGOTIATE OR CAUSE TO BE NEGOTIATED THE CLAIM AS THE COMPANY MAY DEEM EXPEDIENT; AND 3) DEFEND OR CAUSE TO BE DEFENDED ON BEHALF OF THE CITY ALL SUITS FOR DAMAGES EVEN IF GROUNDLESS, FALSE OR FRAUDULENT, BROUGHT BECAUSE OF SUCH INJURIES OR DAMAGES. THE COMPANY WILL PAY ALL JUDGMENTS FINALLY ESTABLISHING LIABILITY OF THE CITY IN ACTIONS DEFENDED BY THE COMPANY PURSUANT TO THIS SECTION ALONG WITH ALL ATTORNEYS' FEES AND COSTS INCURRED BY THE CITY INCLUDING INTEREST ACCRUING TO THE DATE OF PAYMENT BY THE COMPANY, AND PREMIUMS ON ANY APPEAL BONDS. THE CITY, AT ITS ELECTION WILL HAVE THE RIGHT TO PARTICIPATE IN ANY SUCH NEGOTIATIONS OR LEGAL PROCEEDINGS TO THE EXTENT OF ITS INTEREST WITHOUT RELIEVING COMPANY OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH. THE CITY WILL NOT BE RESPONSIBLE FOR ANY LOSS OF OR DAMAGE TO THE COMPANY'S PROPERTY FROM ANY CAUSE.

**SECTION XV. TERMINATION OF AGREEMENT**. This Agreement may be terminated under any one of the following circumstances:

A. TERMINATION FOR CONVENIENCE: This Agreement may be terminated by City for convenience upon written notice, provided such notice specifies an effective date for cancellation of not less than thirty (30) calendar days from the date such notice is received. It is also understood and agreed that upon such notice of termination, the Company shall cease all services under this Agreement. Upon such termination, the Company shall provide a final invoice for all work completed prior to the City's notice of termination. The City shall compensate the Company in accordance with this Agreement; however, the City may withhold any payment to the Company for the purpose of set off until such time as the exact amount of damages due the City from the Company is determined. Nothing contained herein, or elsewhere in this Agreement, shall require the City to pay for any work which is unsatisfactory, incomplete or not in compliance with the terms of this Agreement and its attachments.

**B. TERMINATION FOR DEFAULT:** It is further understood and agreed by the Company and the City that either party may terminate this Agreement for cause. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate after thirty (30) consecutive calendar days, enumerating the failures for which the termination is being sought; b) a minimum of fifteen (15) consecutive calendar days to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination.

However, the City retains the right to immediately terminate this Agreement for default if the Company fails to maintain its licenses, certifications and other standards required to be a qualified Company pursuant and the laws of the State of Texas or violates any local, state or federal laws. In the event of termination by the City pursuant to this subsection, the City may withhold payments to the Company for the purpose of set off until such time as the exact amount of damages due the City from the Company is determined.

# SECTION XVI. GENERAL PROVISIONS.

A. TIME IS OF THE ESSENCE. The Company understands and agrees that time is of the essence for all services and deliverables requested herein and that all tasks of this Agreement are to be completed as expeditiously as possible.

- **B. ADVERTISING.** Neither party will advertise or publish, without the other party's consent, the fact that the City has entered into this contract, except to comply with proper requests for information from an authorized representative of the federal, state, or local government.
- C. SUCCESSOR AND ASSIGNS. The Company shall not assign or attempt to convey an interest in this Agreement without the prior written consent of the City. This Agreement shall be terminable, at the discretion of the City, without notice to the Company if the Company shall attempt to assign without prior written consent.
- **D. VENUE.** For purpose of determining 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.
- E. LEGAL CONSTRUCTION. Every provision of this Agreement is severable, and 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 this Agreement. Where the context of the Agreement require, the singular shall include the plural and the masculine gender shall include feminine. Any reference to the City Manager in this Agreement shall mean the City Manager of the City of El Paso or his designee.
- F. COMPLIANCE WITH LAW. The Company shall comply with all Federal, State and local laws and ordinances applicable to the work contemplated herein.
- **G. NOTICE.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other party be in writing and either personally delivered or sent via certified mail, return receipt requested, postage prepaid, to the following addresses:

	City of El Paso Attn: City Manager P.O. Box 1890 El Paso, Texas 79950-1890
With Copy to:	City of El Paso Fire Chief 416 N. Stanton, Suite 200 El Paso, TX 79901-1242
COMPANY:	Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers Bianca Barrett 6320 Gateway East El Paso, TX 79905

Changes may be made to the names and addresses noted herein through timely written notice to the other party.

**H. FORCE MAJEURE.** The Company shall not be responsible or liable for any loss, damages or delay caused by force majeure which is beyond the control of the parties to this Agreement, including but not limited to riot, insurrection, embargo, fire or explosion, the elements, acts of nature, epidemic, war, earthquake, flood or the official act of any government.

I. **COMPLETE AGREEMENT.** This Agreement constitutes and expresses the entire agreement between the parties hereto in reference to the services described in this Agreement for the City, and

in reference to any of the matters or things herein provided for, or hereinbefore discussed or mentioned in reference to such services, all promises, representations and understanding relative thereto herein being merged.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement in El Paso, Texas effective as of the first date appearing heretofore.

[Signature page to follow]

STATE OF TEXAS

COUNTY OF EL PASO

#### PROFESSIONAL SERVICE AGREEMENT FOR BASELINE PHYSICAL EXAMS FOR FIREFIGHTERS FOR THE FIRE DEPARTMENT

**IN WITNESS WHEREOF**, the parties have hereunto set their hands this \_\_\_\_\_\_day of \_\_\_\_\_, 20\_\_\_.

)

)

)

<u>CITY</u>: CITY OF EL PASO:

Tomás González City Manager

**APPROVED AS TO FORM:** 

Juan S. Gonzalez

Senior Assistant City Attorney Purchasing & Strategic Sourcing

# **APPROVED AS TO CONTENT:**

## **APPROVED AS TO CONTENT:**



Claudia A. Garcia, Interim Director

Jonathan Killings, Interim Fire Chief El Paso Fire Department

<u>COMPANY</u>: Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers

Name:\_\_\_\_\_

Title:\_\_\_\_\_

## **EXHIBIT A**

#### **Scope of Work**

#### **Background Information**

The City of El Paso and International Association of Firefighters (IAFF), Local 51 agree it is in the best interest of its members to maintain the highest standards of safety and health possible in order to minimize accidents, injuries, illness, and death to fire fighters. The Collective Bargaining Agreement (CBA) entered into by the City of El Paso and the International Association of Firefighters, Local 51 provides for the establishment of mandatory annual baseline physicals for every uniformed employee of the fire department.

#### Purpose

The City of El Paso is soliciting proposals for Baseline Physical Exams for uniformed fire department employees. It is the desire of the City of El Paso to solicit proposals for baseline physicals in accordance with guidelines established in the CBA, and the Fire Service Joint Labor Management Wellness-Fitness Initiative, and NFPA 1582 Standard on Comprehensive Occupational Medical Program for Fire Departments. The City shall order all of its supplies and/or services from one or more successful bidders (contractors) from time to time as needed. Only personnel from the fire department are authorized to directly place orders against this Contract. Personnel from other City departments may only utilize this contract with expressed written authorization from the fire department and only if the additional usage is within reasonableness given the total awarded amount of the Contract.

#### **Scope of Work and Minimum Requirements**

I. Scope of Services

Baseline Screening and General Fitness Assessment

Contractor will devise, implement, and operate a program for performing Baseline Screenings and General Assessment for El Paso Firefighters.

VOLUME: The annual baseline screenings shall include a medical examination according to the following schedule:

a) Ages 18-39: Every two (2) years (estimated number of participants = (496)

b) Ages 40 and above: Every year (estimated number of participants = \*(426)

LEVELS: Participants in age group "a" above, will be administered the Baseline Screening and General Fitness Assessment (Level I and III) annually. Participants in age group "b" above, will be administered the Baseline Screening, Comprehensive Examinations and General Fitness Assessment (Level I, II and III) annually.

\*Included in this age group will be members of the Hazardous Materials Entry Team (estimated number of participants is forty-five (45) and persons that a physician deems Level II Examinations).

# A. Baseline Screening (LEVEL I): The Contractor shall perform the following tasks in conducting Baseline Screening.

1. Health Risk Assessment (HRA)

A computerized analysis of personal and family health history and life styles habits. Each firefighter will receive a personalized HRA report to indicate his/her risk for coronary heart disease, diabetes, and other lifestyle diseases. This report must include a personal profile on the following:

- Blood Pressure
- Cholesterol HDL= LDL= Total/HDL Ratio
- Triglycerides
- Glucose
- Cancer Risk

- Diabetes Risk
- Stress and Depression inventory/guidelines for improvement
- Cardiovascular assessment
- Strength profile and strength training tips
- Flexibility profile
- Body composition analysis
- Personal program goals for improving health and fitness
- Nutrition habits analysis/guidelines for improvement
- Exercise planner (prescription)
  - To indicate recommended sessions per week and duration
  - Warm up and cool down
  - Cardiovascular with target heart rate
  - o Strength Training
  - Recreational activities
- A Management Summary Report: Aggregate report will be prepared on a quarterly basis and include an annual summary to be submitted to the Fire Chief within ten (10) days of the end of quarter and within twenty (20) days of the end of the year, respectively.
- A chest X-ray of personnel. This will be an optional "for use only" item by Fire Department Administration referral only.
- 2. Analysis of Personal and Family Health History and Lifestyle Risk Factors

Each firefighter will receive a complete analysis of personal and family health history and lifestyle habits. This report called, "The Heart Test" will list each firefighter's risk for coronary heart diseases. A management summary report with a spreadsheet will be prepared on a quarterly and annual basis and submitted to the Fire Chief. The spreadsheet shall include the following:

- Data identifying the membership by gender and age categories (i.e. 29 and under, 30-39, 40 and over)
  - Body composition
  - o VO2 max
  - o Flexibility
  - o Muscular endurance
- Phase I and Phase II status summaries shall be provided for each reporting period.
- 3. Blood Test
  - SMAC-20
  - Lipid Profile
  - Complete Blood Count (CBC)
  - A blood test will be performed for each firefighter utilizing SMA24 and such test shall include a Lipid Profile and a Complete Blood Count (CBC). PSA for male persons over the age of 40.
  - CRP (C-reactive protein test)
- 4. Urinalysis (Routine)

Urinalysis will be performed for each firefighter, which will include the following test attributes: 22-1044-1735 | 1215347 | 2023-0183 Phys Exams (FD) | Concentra | jsg Page 12 of 28 Tests for specific gravity. PH, protein, glucose, blood, ketones, bilirubin, and urobilinogen.

5. Spirometry/Lung Function Screening

Spirometry/Lung Function Screening: A spirometry test will be performed for each firefighter to ascertain the measurement of lung volumes and capacities.

6. Resting Electrocardiogram (ECG)

Electrocardiogram (EKG): An EKG will be performed for each firefighter using twelve (12) leads to measure heart experiences during times of rest. This test will be monitored by a physician or exercise physiologist and compared to previous years ECGs.

7. Hearing Test

A hearing test will be performed for each firefighter. Contractor is responsible for the adequacy of the hearing test performed. The hearing test performed for each firefighter shall consist of the ear conduction screening for each ear.

8. Colorectal Screening

A colorectal screening kit will be provided to each firefighter forty (40) and over at the time of their baseline screening.

9. Eye Test

An eye test will be performed for each firefighter. The Contractor is responsible for the adequacy of the eye test performed. The eye test performed for each firefighter shall consist of visual Acuity screening for both far vision acuity and near vision acuity; eyes must be tested separately; color vision testing must be assessed using color plates, such as Ishihara plates; when peripheral vision evaluations are indicated, protocol specific to the test apparatus, not objects in the field, must be utilized.

10. Pap Smear Counseling (Females)

Female employees will be counseled on the importance of scheduling pap smears with their OB/GYN to screen for cervical inflammation or cervical cancer.

- **B.** Comprehensive Examination (LEVEL II): The Contractor shall provide a licensed physician to monitor and prescribe the following as necessary (to include all elements in Basic Screening (Level I) and must be familiar with fire service job requirements and fit-for-duty expectations:
  - 1. Medical examination by a physician (include all elements from Level I). Physician will go over all testing and exams with employee (to include blood test from Level I).
  - 2. The stress test from Level III will be performed and supervised by a Physician.
    - a. Stress tests that result in abnormalities and fit the criteria for referral to a Coronary Calcium scan shall be handled by the physician monitoring the exam.
      - i. Attending physician shall work with a local hospital to expedite the results of the calcium screen.
        - 1. Estimated number of participants- 10 per year
  - 3. Perform Blood Test: PSA (over age of 40)
  - 4. Mammogram counseling for females over age 40. Female employees will be counseled on the importance of annual mammogram screening over the age of 40.

- 5. Heavy metal blood work. Optional "for use only" item by Fire Department Administration referral only. Contractor shall provide for this test upon request by the Fire Chief or his designee. Contractor may be required to test for Lead, Mercury, Cadmium, Arsenic and Antimony as the top five heavy metals encountered by firefighters leading to cardiac and respiratory events. Contractor may however, be required to test for Bismuth, Beryllium, Platinum, Nickel, Thallium, Thorium, Tin, Tungsten, and Uranium as well.
- 6. Interferon-Gamma Release Assays. Optional "for use only" item by Fire Department Administration referral only. Contractor shall provide for this test upon request by the Fire Chief or his designee following personnel exposure or suspicion of exposure to TB.
  - a. Vendor will administer Chest X-Ray to personnel who test positive on IGRA to confirm presence/ status of TB.

## C. General Fitness Assessment (LEVEL III):

1. Submaximal Exercise Test, on treadmill, to evaluate cardiovascular endurance. This test must be heart rate monitored using at a minimum Wellness Fitness Initiative protocols (protocol will be provided to vendor).

The test shall determine:

- a) The estimated maximum oxygen uptake;
- b) The individual firefighter's response to exercise;
- c) Percentage ranking by age group of the firefighter's performance;
- d) The basis for a cardiovascular exercise prescription; and
- e) The basis for measuring improved aerobic capacity and the comparison to previous performance levels.

This test either will be monitored by an exercise physiologist or licensed physician.

- 2. Muscular Strength and Endurance Test: Each firefighter will be requested to perform a push up test, sit-up test and a flexibility test. These tests will provide an additional basis for the exercise prescription and compared to previous performance levels.
  - a) Push-Up Test: Each firefighter will perform their maximum number of push-ups, to fatigue, to determine upper body muscular strength and endurance. Each firefighter shall receive a percentage ranking by age of his or her test performance.
  - b) Sit-up Test: This test will be performed using YMCA protocol. Each firefighter will be requested to perform as many modified sit-ups as possible in a one-minute period. This test will provide an estimate of general muscular endurance. Each firefighter shall receive a percentage ranking by age of his or her test performance.
  - c) Flexibility Test: Each firefighter will be requested to complete a "sit and reach test". The test is intended to provide an objective measure of flexibility for lumbar, hip and hamstring motion. Each firefighter shall receive a percentage ranking by age of his or her test performance.
- 3. At the completion of aforementioned testing, each firefighter shall receive an individual exercise prescription. The exercise prescription will be based on information and tests completed by each firefighter. The exercise prescription will suggest various exercises for each firefighter and suggest frequency, intensity, duration, and mode of exercise for improving cardiovascular endurance, muscular strength, and flexibility.

4. Additional tests, to be performed in order to more fully ascertain an individual firefighter's physical fitness, are delineated as follows:

Body Composition Analysis (BCA): to measure total body water, the BCA will provide a measurement of percentage of body fat, percentage of lean body weight, the individual's estimated metabolic rate, the ideal body fat range according to age, sex, height, weight, frame size, and activity level, and an estimate of caloric requirements.

5. All test results will be returned to each individual firefighter within two weeks after each task/test has been completed.

## **II. General Information**

- A. Contractor shall perform all duties as specified under this contract with such reasonable care, skill and diligence as would be practiced by the medical and scientific community, as applicable, within the county of El Paso, Texas.
- B. The City will be obligated to honor a demand for payment for services rendered by the Contractor under the terms of this contract only if such demand for payment is made by the Contractor, and only if such demand for payment conforms to the rates for compensation as per award.
- C. At the termination of the contract, all medical records produced or obtained as a product of the contract will be forwarded to the City or such other place as the City may designate. All records will be forwarded within thirty (30) business days of contract termination.

## **III. Additional Requirements**

- A. The proposer must specify the names and qualifications of all physicians who will be performing the examinations and shall be familiar with fire service job requirements and fit-for-duty expectations. Any additional doctors must be submitted to the City for approval prior to performing the examinations. The City will not pay for any physicals performed by physicians who do not have City approval.
- B. The contractor must be certified by the College of American Pathology or equivalent industry-sponsored board or governmental agency. Medical technicians must be directly supervised by an individual with a Ph.D. in chemistry. All other physiologists clinicians or healthcare providers contracted for administering the department's physical fitness program shall be familiar with fire service job requirements and fit-for-duty expectations
- C. The contractor must provide a minimum of two (2) parking spaces capable of accommodating two (2) fire trucks. Each space must be a minimum of 11 feet wide by 45 feet long.
- D. The contractor must provide examination rooms that are separate from other patients visiting for illnesses or other medical needs.
- E. Based on results obtained by the physicians, the exercise physiologist shall help design, administer, and monitor appropriate fitness programs in conjunction with fire department Peer Fitness Trainers for fire department personnel.
- F. Based on the physician's evaluation or upon referral by the Fire Chief, the contractor shall evaluate firefighters for a recommendation on fitness for duty or re-entry into the workforce from a significant injury or long term illness. Physicians shall prescribe a fitness or rehabilitation program utilizing the contractor's facilities incorporating the established criteria in NFPA 1582 and 1583.
  - a. Medical and Fitness Alerts:
    - 1. Type A (Yellow Flag Alert) requires further intervention and may be referred to the individual's Personal Care Physician (PCP). The firefighter may seek a fitness prescription from the Contractor's physician or the PCP. Yellow Flag indicates the Firefighter has a health issue but

does not need to be taken off active duty. The Contractor under the direction of the licensed physician shall keep track of these Firefighters and make notification to the Fire Chief or his designee.

- 2. Type B (Red Flag Alert) Immediate health threat to the Firefighter. Requires recommendation by the licensed physician that the Firefighter be pulled from active duty immediately. The Fire Chief or his designee shall be notified immediately.
- b. Firefighters receiving a Type A or B alert shall be provided a fitness prescription to be administered and monitored by the Contractor's physiologist or the Department's Peer Fitness Trainers.
- c. By the 10th day of each month, a roster of all firefighters who received physicals the month prior will be e-mailed to the fire department's Health and Safety Division. This roster will be alphabetized in EXCEL format (or other acceptable format) and will include personnel evaluated at all facilities. Additionally, the report will include the type (level) of physical that was performed.

#### **IV. Confidentiality of Information**

- A. All conversations between the firefighter and the Contractor in connection with the program and records maintained by the program shall be considered privileged as to the employee. When however, the Contractor has concluded that the firefighter constitutes a clear danger to himself/herself or others, Contractor shall immediately notify the Fire Chief or designee of such danger.
- B. This program shall not be construed as preventing the Fire Chief from requiring independent evaluation of a firefighter by an appropriate expert of the Fire Chief's choice.
- C. Records regarding baseline physical shall be available to other physicians if the treated firefighter is involved in an emergency.
- D. The proposer shall keep the records for the life of the contract at which time they shall transfer all records back to the City. All physicals and tests are property of the City of El Paso and shall be treated as such throughout the life of the contract and during the transfer of such information upon termination of the contract.
- E. Proposers must follow regulations according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Proposer must sign the City's HIPAA Business Associate Agreement.

# EXHIBIT B

# **COMPENSATION**

[ATTACHED]

ITEM #	TYPE OF SERVICE	ESTIMATED NUMBER OF LAB TESTS	UNIT PRICE PER TEST	TOTAL EXTENDED PRICE (NUMBER OF LAB TESTS X UNIT PRICE)
1	Health Risk Assessment (HRA)	450	\$53.50	\$24,075.00
2	Analysis of Personal and Family Health History and Lifestyle Risk Factors * Personal & Family Health History Analysis To Include "The Heart Test" ACSM Guidelines with Details and Cost on how			
	Principles will be applied	450	\$0.00	\$0.00
3	Blood Test - * SMAC-20: * SMAC-24: * Lipid Profile: * Complete Blood Count (CBC): * CRP:	450	\$130.00	\$58,500.00
4	Urinalysis (Routine)	450	\$37.00	\$16,650.00
5	Spriometry/Lung/Function Screening (to include Physical Interpretation/Radiologist's Interpretation)	450	\$29.00	\$13,050.00
6	Resting Electrocardiogram	450	\$47.00	\$21,150.00
7	Hearing Test	450	\$30.00	\$13,500.00
8	Hemocult (In Center)	450	\$58.50	\$26,325.00
9	Eye Test	450	\$43.00	\$19,350.00
10	Pap Smear Counseling (Females)	10	\$0.00	\$0.00
**11**	Fire Fighter Physical	450	\$75.00	\$33,750.00
	Six-month Estimated Total for Part A (Level1) (Items 1-10)		\$503.00	\$226,350.00

#2 - Included in the cost of the physical or Concentra will perform those services at no cost to the City.
 #10 - Pap smear counseling is considered part of the conversation during physical exam.
 Concentra will not perform the PAP exams at their facility.

ITEM #	TYPE OF SERVICE	ESTIMATED NUMBER OF LAB TESTS	UNIT PRICE PER TEST	TOTAL EXTENDED PRICE (NUMBER OF LAB TESTS X UNIT PRICE)
1	Medical Exams performed by Licensed Physicians, (Include all elements from Level I – (consultation) • Health Risk Assessment (HRA) listed on Item 1, Page 12 & 13 • Analysis of personal and Family Health History and Lifestyle Risk Factors listed on Item 2, Page 13 • Blood Test, Item 3, Page 13 • Urinalysis, Item 4, Page 13 • Spirometry/Lung Function Screening, Item 5, Page 13 • Resting Electrocardiogram (ECG), Item 6, Page 14 • Hearing Test, Item 7, Page 14 • Colorectal Screening, Item 8, Page 14 • Eye Test, Item 9, Page 14 • Pap Smear Counseling (Females), Item 10, Page 14	450	\$503.00	\$226,350.00
2	**Stress test-submaximal treadmill stress test (WFI Standard)	225		\$0.00
3	Calcium (included in CMP)	450	\$0.00	\$0.00
4	Blood Test (to include PSA over age of 40)	225	\$58.50	\$13,162.50
5	Mammogram Counseling for females over 40	6	\$0.00	\$0.00
6	Heavy Metal blood work (per FD Request)	450	\$153.00	\$68,850.00
7	TB Testing	450	\$66.00	\$29,700.00
8	Pulse	450	\$0.00	\$0.00
9	Respirations	450	\$0.00	\$0.00
10	**temperatures ears, eyes, nose, mouth, and throat	450	\$0.00	\$0.00
11	**Gastrointestinal system	450	\$0.00	\$0.00
12	**Respiratory System	45	\$0.00	\$0.00
13	**Cardiovascular System	450	\$0.00	\$0.00
14	**Dermatological System	450	\$0.00	\$0.00
15	**Genitourinary System	450	\$0.00	\$0.00

# B. Comprehensive Examinations - Level II

	Six-month Estimated Total for Part B (Level 2) (Items 1-19)		\$780.50	\$338,062.50
19	**Visual Acuity and Peripheral Vision Testing	450	\$0.00	\$0.00
18	**Neurological System	450	\$0.00	\$0.00
17	**Musculoskeletal System	450	\$0.00	\$0.00
16	**Endocrine and Metabolic System	450	\$0.00	\$0.00

\*\* Item 2 To be contract directly/Separately with El Paso Cardiology.

Items 5-19 - Included in the cost of the physical or Concentra will perform those services at no cost to the City.

## C. General Fitness Assessment - Level III

ITEM #	TYPE OF SERVICE	ESTIMATED NUMBER OF LAB TESTS	UNIT PRICE PER TEST	TOTAL EXTENDED PRICE (NUMBER OF LAB TESTS X UNIT PRICE)
1	Sub-Maximal Exercise Test	<u>225</u>	<u>\$50.00</u>	<u>\$11,250.00</u>
	Muscular strength and endurance test <ul> <li>Push-up test</li> </ul>			
2	<ul><li>Sit-up test</li><li>Flexibility test</li></ul>	<u>450</u>	<u>\$73.00</u>	<u>\$32,850.00</u>
3	Individual Exercise Prescription	<u>450</u>	<u>\$83.00</u>	<u>\$37,350.00</u>
4	Body Composition Analysis		<u>\$0.00</u>	<u>\$0.00</u>
Six-month Estimated Total for Part C (Level III) (Items 1-4) \$206.00 \$81,450.00			<u>\$81,450.00</u>	
Six-month Estimated Total for Part A, B and C <u>\$1,489.50</u> <u>\$645,862.50</u>			<u>\$645,862.50</u>	
Item #4 - Included in the cost of the physical or Concentra will perform those services at no cost to the City.				

TYPE OF SERVICE	
Rehabilitation Services (Section III - Additional	
requirements. Part F)	
<ul> <li>Fire department physician who is familiar with job</li> </ul>	
requirements and for fit-for-duty expectations.	
<ul> <li>Current treatment methods for the most frequent job-</li> </ul>	
related injury or illness for uniformed personnel.	
<ul> <li>Clinicians familiar with fire service job requirements and</li> </ul>	
fit-for-duty expectations.	
<ul> <li>A transitional duty program.</li> </ul>	
<ul> <li>Periodic re-evaluation prior to returning to full duty.</li> </ul>	
<ul> <li>Personalized exercise prescription that considers job</li> </ul>	
requirements and the individual's past medical history.	
<ul> <li>Comprehensive injury prevention program</li> </ul>	
(Provide any additional rehabilitation services offered on a	
separate sheet)	
Cost Per Session	\$156.00

# EXHIBIT C

# **BUSINESS ASSOCIATE AGREEMENT**

[ATTACHED]

# STATE OF TEXAS ) ) HIPAA BUSINESS ASSOCIATE AGREEMENT COUNTY OF EL PASO )

**THIS AGREEMENT** is entered into on \_\_\_\_\_\_, 20\_\_\_\_ by and between the CITY OF EL PASO, TEXAS ("CITY"), as the Covered Entity, and Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers, ("BUSINESS ASSOCIATE") by and through their duly authorized officials, in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information ("PHI") and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as "HIPAA"). Covered Entity and Business Associate may be referred to herein individually as a "Party" or collectively as the "Parties".

# RECITALS

**WHEREAS,** CITY has engaged BUSINESS ASSOCIATE to perform physical examinations and drug screenings on all police academy applicants, Police Department employees considered for reinstatement, and Police Department employees considered for admittance to the Hazardous Devices School; and

WHEREAS, CITY possesses individually identifiable health information that is defined in and protected under HIPAA, and is permitted to use or disclose such information only in accordance with HIPAA; and

WHEREAS, BUSINESS ASSOCIATE may receive such information from CITY, or create and receive such information on behalf of CITY, in order to perform certain of the services or provide certain of the goods, or both; and

**WHEREAS,** CITY wishes to ensure that BUSINESS ASSOCIATE will appropriately safeguard individually identifiable health information;

**NOW THEREFORE,** CITY and BUSINESS ASSOCIATE agree as follows:

# A. HIPAA Terms

- 1. **Definitions**. The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear, or as provided in (1)(h) to this Section.
  - **a. Agreement** shall refer to this document.
  - **b.** Business Associate means Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers

- **c. HHS Privacy Regulations** shall mean the Code of Federal Regulations ("C.F.R.") at Title 45, Sections 160 and 164, in effect, or as amended.
- **d. Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term "individual" is defined in 45 C.F.R. 164.501.
- e. Information shall mean any "health information" provided and/or made available by the CITY to BUSINESS ASSOCIATE, and has the same meaning as the term "health information" as defined by 45 C.F.R. 160.102.
- f. **Parties** shall mean the CITY and BUSINESS ASSOCIATE.
- **g. Secretary** shall mean the Secretary of the Department of Health and Human Services ("HHS") and any other officer or employee of HHS to whom the authority involved has been delegated.
- h. Catch-all definition: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. Part 160 and 164, in effect, or as amended: breach, data aggregation, designated record set, disclosure, health care operations, protected health information, required by law, subcontractor, and use.
- 2. Limits on Use and Disclosure Established by Terms of Agreement. BUSINESS ASSOCIATE hereby agrees that it shall be prohibited from using or disclosing the Information provided or made available by the CITY for any other purpose other than as expressly permitted or required by this Agreement (ref. 45 C.F.R. 164.504(e)(2)(i).)
- 3. **Stated Purposes for which BUSINESS ASSOCIATE May Use or Disclose Information.** The Parties hereby agree that BUSINESS ASSOCIATE shall be permitted to use and/or disclose Information provided or made available from CITY for the following stated purposes: To provide <u>public health, research, and related support</u> <u>services (service)</u> to the community of the CITY for the mutual benefit and general welfare of BUSINESS ASSOCIATE and the CITY (ref. 45 C.F.R. 164.504(e)(2)(i); 65 Fed. Reg. 82505.)
- 4. **Use of Information for Management, Administrative and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 45 C.F.R. 164.504(e)(4)(i)(A-B)).

- 5. **Disclosure of Information for Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from CITY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:
  - **a.** The disclosure is required by law; or

**b.** The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the information has been breached. (ref. 45 C.F.R. 164.504(e)(4)(ii)).

 Data Aggregation Services. BUSINESS ASSOCIATE is also permitted to use or disclose Information to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of CITY. (ref. 45 C.F.R. 164.504(e)(2)(i)(B)).

# B. BUSINESS ASSOCIATE OBLIGATIONS:

- a. Limits on Use and Further Disclosure Established by Agreement and Law. BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by the CITY shall not be further used or disclosed other than as permitted or required by the Agreement or as required by federal law. (ref. 45 C.F.R. 164.504(e)(2)(ii)(A)).
- **b. Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the Information, other than as provided for by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(B)).
- **c. Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it shall report to CITY **within two (2) days of discovery** any use or disclosure of Information not provided for or allowed by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(C)).
- **d. Subcontractors and Agents.** BUSINESS ASSOCIATE hereby agrees that any time Information is provided or made available to any subcontractors or agents, BUSINESS ASSOCIATE must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of Information as contained in this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(D)).

(i) 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2). In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BUSINESS ASSOCIATE agrees to ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of BUSINESS ASSOCIATE agree in writing to the same restrictions and conditions that apply through this Agreement to BUSINESS

ASSOCIATE with respect to such Information.

- e. Right of Access to Information. BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to Information by an Individual. This right of access shall conform with and meet all of the requirements of Section 181.102 of the Texas Health and Safety Code, requiring that not later than the 15th business day after the date of the receipt of a written request from a person for the person's electronic health record, BUSINESS ASSOCIATE shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form, and with any further requirements of 45 C.F.R. 164.524, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(E)).
- f. Correction of Health Information by Individuals. BUSINESS ASSOCIATE shall, upon receipt of notice from the CITY, amend or correct protected health information (PHI) in its possession or under its control.
- **g.** Amendment and Incorporation of Amendments. BUSINESS ASSOCIATE agrees to make Information available for amendment and to incorporate any amendments to Information in accordance with 45 C.F.R. 164.504(e)(2)(ii)(F)).
- h. Provide Accounting. BUSINESS ASSOCIATE agrees to make Information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(G)).
- i. Access to Books and Records. BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to the use or disclosure of Information received from, or created or received by BUSINESS ASSOCIATE on behalf of the CITY, available to the Secretary or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations. (ref. 45 C.F.R. 164.504(e)(2)(ii)(H)).
- **j. Return or Destruction of Information.** At the termination of this Agreement, BUSINESS ASSOCIATE hereby agrees to adhere to Section B.3. of this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(I)).
- **k. Mitigation Procedures.** BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of Information in a manner contrary to this Agreement or the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(f)).
- I. Sanction Procedures. BUSINESS ASSOCIATE agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement of the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(e)(1)).
- m. Subpart E of 45 C.F.R. Part 164. To the extent BUSINESS ASSOCIATE is to carry out

one or more of CITY'S obligations under Subpart E of 45 C.F.R. Part 164, BUSINESS ASSOCIATE shall comply with the requirements of Subpart E that apply to CITY in the performance of such obligation(s).

- **n. Prohibition against the Sale of Protected Health Information.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.153, and any amendments of that section.
- o. Notice and Authorization Required for Electronic Disclosure of PHI. The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.154, and any amendments of that section, regarding the requirement of providing notice to an Individual for whom the BUSINESS ASSOCIATE creates or receives protected health information if the Individual's PHI is subject to electronic disclosure.
- **p.** State Law on Medical Records Privacy. The BUSINESS ASSOCIATE shall abide by the requirements set forth in Texas Health and Safety Code Section 181.001 et. seq., and any amendments of that chapter.
- **q. Property Rights.** The Information shall be and remain the property of the CITY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified Information, as a result of this Agreement.
- **r. Modifications**. The CITY and BUSINESS ASSOCIATE agree to modify this Business Associate Agreement, in order to comply with Administrative Simplification requirements of HIPAA, as set forth in Title 45, Parts 160 and 164, (Subparts A and E the "Privacy Rule" and Subparts A and C the "Security Rule") of the Code of Federal Regulations.
- **s. Automatic Amendment**. Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Agreement shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

# C. Term and Termination

- **a. Term.** The Term of this Agreement shall be effective as of the date this Agreement is executed and shall remain in effect for the same term as the Professional Service Agreement with Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers for services for the fire department or shall terminate on the date covered entity terminates for cause as authorized in paragraph (B.2.) of this Section, whichever is sooner.
- **b. Termination for Cause**. Upon the CITY's knowledge of a material breach by BUSINESS ASSOCIATE, the CITY shall:
  - i. Provide an opportunity for BUSINESS ASSOCIATE to cure the breach or end the violation, and terminate if BUSINESS ASSOCIATE does not cure the breach

or end the violation within the time specified by the CITY.

- **ii.** Immediately terminate the Business Associate Agreement if BUSINESS ASSOCIATE has breached a material term of this Business Associate Agreement and cure is not possible.
- iii. Notify the Secretary of HHS if termination is not possible.
- c. Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason, BUSINES ASSOCIATE, with respect to protected health information received from CITY, or created, maintained, or received by BUSINESS ASSOCIATE on behalf of CITY, shall:
  - i. Retain only that protected health information which is necessary for BUSINESS ASSOCIATE to continue its proper management and administration or to carry out its legal responsibilities;
  - ii. Return to CITY, or, if agreed to by CITY, destroy, the remaining protected health information that the BUSINESS ASSOCIATE still maintains in any form and BUSINESS ASSOCIATE shall certify to the CITY that the Information has been destroyed;
  - iii. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as BUSINESS ASSOCIATE retains the protected health information;
  - iv. Not use or disclose the protected health information retained by BUSINESS ASSOCIATE other than for the purposes for which such protected health information was retained and subject to the same conditions set out at Section 1.e and 1.f above, which applied prior to termination; and
  - v. Return to CITY or, if agreed to by CITY, destroy, the protected health information retained by BUSINESS ASSOCIATE when it is no longer needed by BUSINESS ASSOCIATE for its proper management and administration or to carry out its legal responsibilities.
- **d. Survival**. The obligations of BUSINESS ASSOCIATE under this Section shall survive the termination of this Agreement.
- e. **Remedies.** If CITY determines that BUSINESS ASSOCIATE has breached or violated a material term of this Agreement, CITY may, at its option, pursue any and all of the following remedies:
  - i. Exercise any of its rights of access and inspection under Section A.7.e. of this Agreement;

Take any other reasonable steps that CITY, in its sole discretion, shall deem necessary to cure such breach or end such violation; and/or

- ii. Terminate this Agreement immediately.
- f. Injunction. CITY and BUSINESS ASSOCIATE agree that any violation of the provisions of this Agreement may cause irreparable harm to CITY. Accordingly, in addition to any other remedies available to CITY at law, in equity, or under this Agreement, in the event of any violation by BUSINESS ASSOCIATE of any of the provisions of this Agreement, or any explicit threat thereof, CITY shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages. The parties' respective rights and obligations under this Section C.4. shall survive termination of the Agreement.
- **g. Indemnification**. To the extent allowed and not otherwise prohibited by Texas law, BUSINESS ASSOCIATE shall indemnify, hold harmless and defend CITY from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, the acts or omissions of BUSINESS ASSOCIATE in connection with the representations, duties and obligations of BUSINESS ASSOCIATE under this Agreement. The parties' respective rights and obligations under this Section 5 shall survive termination of the Agreement.

# D. Miscellaneous

- 1. **Regulatory References.** A reference in this Agreement to a HIPAA section means the section as in effect or as amended.
- 2. Amendment. CITY and BUSINESS ASSOCIATE agree that amendment of this Agreement may be required to ensure that CITY and BUSINESS ASSOCIATE comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of protected health information. CITY may terminate this Agreement upon 60 days written notice in the event that BUSINESS ASSOCIATE does not promptly enter into an amendment that CITY, in its sole discretion, deems sufficient to ensure that CITY will be able to comply with such laws and regulations. This Agreement may not otherwise be amended except by written agreement between the parties and signed by duly authorized representatives of both parties.
- **3. Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
- 4. Notices. Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

CITY:	City of El Paso Attn: City Manager P.O. Box 1890 El Paso, Texas 79950-1890
With Copy to:	City of El Paso Attn: Fire Chief 416 N. Stanton, Suite 200 El Paso, TX 79901-1242
BUSINESS ASSOCIATE:	Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers Attn: Bianca Barrett 6320 Gateway East El Paso, TX 79905

- 5. Non-Waiver. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.
- 6. **Headings.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.
- 7. **Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its principles of conflict of laws, with venue in El Paso County, Texas.
- 8. Compliance with Laws. BUSINESS ASSOCIATE agrees that its obligations pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, BUSINESS ASSOCIATE reserves the right to notify CITY in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.
- **9. Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.
- **10. No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended or shall be deemed to confer upon any person other than CITY and BUSINESS

ASSOCIATE, and their respective successors and assigns, any rights, obligations, remedies or liabilities.

**11. Entire Agreement; Counterparts.** This Agreement constitutes the entire Agreement between CITY and BUSINESS ASSOCIATE regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document.

(Signatures follow on next page)

STATE OF TEXAS

COUNTY OF EL PASO

#### PROFESSIONAL SERVICE AGREEMENT FOR BASELINE PHYSICAL EXAMS FOR FIREFIGHTERS FOR THE FIRE DEPARTMENT

**IN WITNESS WHEREOF**, the parties have hereunto set their hands this \_\_\_\_\_\_day of \_\_\_\_\_, 20\_\_\_.

)

)

)

<u>CITY</u>: CITY OF EL PASO:

Tomás González City Manager

#### **APPROVED AS TO FORM:**

Juan S. Gonzalez

Senior Assistant City Attorney Purchasing & Strategic Sourcing

# **APPROVED AS TO CONTENT:**

# **APPROVED AS TO CONTENT:**

Claudia A. Garcia, Interim Director

Jonathan Killings, Interim Fire Chief El Paso Fire Department

<u>COMPANY</u>: Occupational Health Centers of the Southwest, P.A. dba Concentra Medical Centers

Name:\_\_\_\_\_

Title:\_\_\_\_\_



Legislation Text

#### File #: 22-1512, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### District 8

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Discussion and action that the City Manager be authorized to sign an Agreement for Professional Services by and between the City of El Paso and Stantec Consulting Services Inc. for a project known as Deck Plaza Feasibility Study Urban Planning and Engineering Services for an amount not to exceed \$1,321,785.00 and that the City Engineer is authorized to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and to approve Additional Services for an amount not to exceed \$50,000.00 if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount of \$1,421,785 and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.

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

AGENDA DATE:	November 8, 2022
PUBLIC HEARING DATE:	Not Applicable

CONTACT PERSON(S) NAME AND PHONE NUMBER:

Yvette Hernandez, P.E. City Engineer, (915) 212-1860

- DISTRICT(S) AFFECTED: 8
- **STRATEGIC GOAL:** No. 3 Promote the Visual Image of El Paso
- **SUBGOAL:** 3.1 Improve the visual image of the community (gateways, corridors, intersections, and parklands.

#### SUBJECT:

Discussion and action that the City Manager be authorized to sign an Agreement for Professional Services by and between the City of El Paso and Stantec Consulting Services Inc. for a project known as Deck Plaza Feasibility Study Urban Planning and Engineering Services for an amount not to exceed \$1,321,785.00 and that the City Engineer is authorized to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and to approve Additional Services for an amount not to exceed \$50,000.00 if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount of \$1,421,785 and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the execution of the Agreement.

#### **BACKGROUND / DISCUSSION:**

The City of El Paso (City) received a Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant award from the U.S. Department of Transportation (DOT) to fund a planning study related to a proposed Deck Plaza spanning I-10 in the downtown corridor. The planning area for Deck Plaza project falls within the limits of the Texas Department of Transportation's (TxDOT) "ReImagine I-10" project which proposes a complete renovation of I-10. The purpose of the Deck Plaza planning study is to determine the feasibility of designing, constructing, and financing a deck structure and related amenities that would span I-10, from Santa Fe to Campbell. The study further requires the identification of programmatic elements to support financing, operations, and maintenance of the structure and related amenities.

**SELECTION SUMMARY:** Consultant selection was performed in accordance with Texas Code Title 10 Subtitle F Chapter 2254 Subchapter A and the Capital Improvement Department Architectural and Engineering Professional Services Selection Procedure.

#### CONTRACT VARIANCE: N/A

PROTEST N/A

PRIOR COUNCIL ACTION: N/A

#### AMOUNT AND SOURCE OF FUNDING: US DOT RAISE Grant \$900,000.00 Paso Del Norte Community Foundation \$440,000

#### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

**PRIMARY DEPARTMENT:** Capital Improvement Department SECONDARY DEPARTMENT:

**DEPARTMENT HEAD:** 

*Gvette Hernandez* Yvette Hernandez, P.E. City Engineer

#### RESOLUTION

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

That the City Manager be authorized to sign an Agreement for Professional Services by and between the CITY OF EL PASO and STANTEC CONSULTING SERVICES, INC., a New York corpotation registered with the Secretary of State to transact business in Texas, for a project known as **"DECK PLAZA FEASIBILITY STUDY URBAN PLANNING AND ENGINEERING SERVICES "** for an amount not to exceed **\$1,321,785.00**; that the City Engineer is authorized to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and to approve Additional Services for an amount not to exceed \$50,000.00 if such services are necessary for the proper execution of the project and that the increased amounts are within the appropriate budgets of the project for a total amount of \$1,421,785; and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for the execution of the Agreement.

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2022.

CITY OF EL PASO:

Oscar Leeser, Mayor

**ATTEST:** 

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Porto Douto

Roberta Brito Assistant City Attorney

#### **APPROVED AS TO CONTENT:**

Chvette Hernandez

Yvette Hernandez, P.E., City Engineer Capital Improvement Department

# CITY OF EL PASO A/E SELECTION SCORESHEET

Rater	SOLICITATION #2022-0740R Deck Plaza Feasibility Study ~ Urban Planning and Engineering Services							
	Alvidrez Architecture Inc.	InSITU Architecture	Stantec					
Rater 1	80	76	82					
Rater 2	46	66	59					
Rater 3	69	75	78					
Rater 4	59	68	76					
Total Raters Score	254	285	295					
References	3	9	8					
OVERALL SCORE	257	294	303					

 #1 Stantec #2 InSITU		303	
#2	InSITU	294	
#3	Alvidrez	257	

# THE STATE OF TEXAS)AN AGREEMENT FOR)OUNTY OF EL PASOPROFESSIONAL SERVICES

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of El Paso, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the "Owner", and Stantec Consulting Services Inc., a New York Corporation registered with the Secretary of State to transact business in Texas, hereinafter referred to as the "Consultant".

WHEREAS, the Owner intends to engage the Consultant to perform professional services for the project known as "Deck Plaza Feasibility Study Urban Planning And Engineering Services", hereinafter referred to as the "**Project**", as further described in **Attachment** "A"; and

**WHEREAS,** Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through the Owner's selection procedure, in accordance with all applicable state and local laws and ordinances.

**NOW, THEREFORE,** for the consideration set forth in this Agreement and its attachments, the Owner and Consultant agree as follows:

#### ARTICLE I. ATTACHMENTS

**1.1** The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment "A"	Scope of Services and Budget
Attachment "B"	Consultant's Fee Proposal and Hourly Rates
Attachment "C"	Consultant's Basic and Additional Services
Attachment "D"	Payment and Deliverable Schedules
Attachment "E"	Insurance Certificate

#### ARTICLE II. PROJECT

**2.1** The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform the services identified in this Agreement for the Project. The Project shall consist of the Consultant's completion of the Scope of Services as further described in **Attachment "A"**. Such Scope of Services shall be completed in accordance with the identified phases described in **Attachment "D"**.

**2.2** The Consultant shall comply with the City of El Paso Capital Improvement Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under this Agreement. Such Guidelines are available in the Capital Improvement Department.

**2.3** The Consultant shall serve as the Owner's professional representative for the construction of the Project to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services.

**2.4** The Owner shall provide all available information to the Consultant, as to the Owner's requirements for each Project's the construction contract. The Owner shall also provide to the Consultant, all known information pertinent to the Project site, including previous reports and other data relative to design, such as "as-built" drawings or physical conditions now existing at the Project site. In performing its services, the Consultant will be entitled to rely upon the accuracy of the Owner provided information.

**2.5** The Owner hereby designates the City Engineer of the City of El Paso as the Owner's representative with respect to the professional services to be provided by the Consultant pursuant to this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies, and decisions with respect to materials, equipment, elements, and systems pertinent to the work covered by this Agreement. City Engineer will render written decisions within a five (5) working day time period.

#### ARTICLE III. CONSULTANT FEES AND PROJECT BUDGET

**3.1 PAYMENT TO CONSULTANT.** The Owner shall pay to the Consultant an amount not to exceed \$1,321,785.00 for all basic services and reimbursables performed pursuant to this Agreement.

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of the Project and the increased amounts are within the appropriate budget identified for the identified Project.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed **\$50,000.00**, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding **\$50,000.00** must have prior approval by City Council through written amendment to this Agreement.

The parties agree and understand that all fees and compensation to the Consultant shall only become due and payable in accordance with the terms of this Agreement and the fees to be charged for the Project shall be pursuant to the Consultant's fee proposal for such Basic and Additional Services at the rates which is attached hereto as **Attachment "B"**. Payments to the Consultant shall be made pursuant to **Attachment "D"**.

**3.2 CONSULTANT'S SERVICES.** The Basic Services to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C".** 

**3.3 CONSULTANT'S INVOICES.** The Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to **Attachment "D**". Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing. Within ninety days (90) of substantial completion of construction, all outstanding invoices for all work completed to date by the Consultant shall be submitted to the Owner.

**3.3.1** Each invoice shall contain a brief summary indicating, at a minimum, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date. In addition to the Summary, each invoice shall provide a Progress Report. The Progress Report shall describe, at a minimum, the progress of the Project to date also indicating the percentage of completion of the Project. The established schedule for completion shall not be revised except by written amendment to this Agreement, executed by both parties.

**3.3.2** The Owner agrees to pay invoices for all services performed as soon as reasonably possible but not later than thirty (30) days from receipt. Upon dispute, however, the Owner may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to Consultant shall not exceed Consultant's fee proposal, except by written amendment to this Agreement, executed by both parties.

**3.4 PROJECT CONSTRUCTION BUDGET AND TIME.** The Consultant acknowledges that the total project budget for the Project allocates is \$1,421,785.00, which is to include all features essential to the operation of the Project for its intended use as described in the Scope of Services and Project budget in Attachment "A". The Consultant does hereby agree to design the Project such that the Consultant's final agreed cost opinions for the construction of the Project, including all features essential to its intended use, is within the above budgeted amount for the base bid. If the Consultant's cost opinions exceed the Project Budget at any time, the Consultant shall make recommendations to the Owner to adjust the Project. If all responsible bids exceed the City approved Consultant's final cost opinions by more than ten percent (10%), the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

**3.5 COSTS NOT ENUMERATED.** Except as specifically set forth in this Agreement and its attachments, all costs related to the completion of the services requested herein shall be borne by the Consultant and not passed on to the Owner or otherwise paid by the Owner, unless a written amendment to this Agreement is executed by both parties allowing for additional costs.

#### ARTICLE IV. PERIOD OF SERVICE AND TERMINATION

**4.1 PERIOD OF SERVICE.** The services called for by each phase shall begin upon the issuance of a Notice to Proceed from the City Engineer. The Consultant shall complete the

requested services in accordance with the timelines and schedules outlined in **Attachments** "C" and "D".

- **4.2 SUSPENSION.** Barring an early termination as provided herein, this Agreement shall remain in force: a) For a period which may reasonably be required for the design, award of construction contracts, and construction of the improvements included in all construction contracts, including extra work and required extensions thereto; or b) Unless construction has not begun within a period of **twelve (12) months** after the completion of the services called for in that phase of work last authorized. However, should the Consultant's services be suspended for a period longer than six months, the City and Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period. The Owner may determine that this Agreement will remain in full force past the twelve-month period noted above. Such a determination will be based upon the individual circumstances of this Project and this Agreement.
- **4.3 TERMINATION.** This Agreement may be terminated as provided herein.

**4.3.1 TERMINATION BY OWNER.** It is mutually understood and agreed by the Consultant and Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days'** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the Owner's notice of termination. Owner shall compensate Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.

**4.3.2 TERMINATION BY EITHER PARTY.** It is further understood and agreed by the Consultant and Owner that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of **seven (7) consecutive calendar days** to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the Owner retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the Owner pursuant to this subsection, the Owner may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined.

**4.3.3 TERMINATION FOR FAILURE TO COMPLY WITH SUBCHAPTER J, CHAPTER 552, GOVERNMENT CODE.** The requirements of subchapter J, Chapter 552, Government Code, may apply to this Contract and the Contractor or vendor agrees

that the Contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

**4.3.4 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE.** Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

#### ARTICLE V. INSURANCE AND INDEMNIFICATION

**5.1 INSURANCE.** The Consultant shall procure and maintain insurance coverage as required herein and attached in **Attachment "E"**. Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the Owner. The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.

**5.1.1 WORKERS' COMPENSATION INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable Texas law for all of the Consultant's employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

"The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured."

**5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

- a) <u>Commercial General Liability</u> \$1,000,000.00 Per Occurrence \$1,000,000.00 Products/Completed Operations \$1,000,000.00 Personal and Advertising Injury
- b) <u>AUTOMOBILE LIABILITY</u> Combined Single Limit \$1,000,000.00 per accident

**5.1.3 PROFESSIONAL LIABILITY INSURANCE.** The Consultant shall procure and shall maintain, at the Consultant's sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement with a limit of \$1,000,000.00 on a claims made basis.

**5.1.4 OWNER AS ADDITIONAL INSURED.** The Owner shall be named as an Additional Insured on all of the Consultant's Insurance Policies, with the exception of Workers' Compensation and Professional Liability Insurance required by this Agreement.

**5.1.5 PROOF OF INSURANCE.** The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this Agreement.

**5.1.6 GENERAL INSURANCE PROVISIONS.** All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment "E"**. All certificates shall also include the name of the project on the corresponding insurance certificate.

INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, 5.2 CONSULTANT SHALL INDEMNIFY HOLD HARMLESS, AND DEFEND OWNER, AND OWNER'S OFFICERS, DIRECTORS, PARTNERS, AGENTS CONSULTANTS, AND EMPLOYEES FROM AND AGAINST ANY CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS, AND ALL COURT, ARBITRATION, OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO THE PROJECT, PROVIDED THAT ANY SUCH CLAIM, COST, LOSS, OR DAMAGE IS ATTRIBUTABLE TO ANY NEGLIGENT ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT OR CONSULTANT'S OFFICERS, DIRECTORS, PARTNERS, AGENTS, CONSULTANTS OR EMPLOYEES. THE CONSULTANT SHALL NOT BE **RESPONSIBLE FOR ANY ACTS OF ANY OF THE CITY'S INDEPENDENT PROJECT** MANAGERS.

To the extent allowed by state law, the Owner will be responsible for its own actions.

#### ARTICLE VI. FEDERAL AND STATE PROVISIONS

6.1 COMPLIANCE WITH APPLICABLE LAWS – FEDERAL AND STATE FUNDING REQUIREMENTS. Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with applicable laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including,

but not limited to, those which shall impose any duty upon the Owner or Consultant with respect to the use of federal and state funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal and state funds.

Specifically, and not in limitation of the foregoing, Consultant agrees that to the extent required by any agreement between the Owner and any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project, <u>including but not</u> <u>limited to:</u>

--The Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Owner, or supported by FTA through a Loan, Loan Guarantee, or Line of Credit with the Owner.

--The Department of Housing and Urban Development through a Grant Agreement or Cooperative Agreement with the Owner.

--The Federal Aviation Administration (FAA) through a Grant Agreement or Cooperative Agreement with the Owner, as further described in Attachment "F".

-- The Texas Department of Transportation through an Agreement with the Owner.

Copies of grant assurances will be made available to Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project.

**6.1.1 CONTRACT ASSURANCE**. The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

**6.1.2 DBE GOOD FAITH EFFORTS.** The requirements of 49 CFR Part 26, regulations of the U.S. DOT, applies to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of performance of this contract. All firms qualifying under this solicitation are encouraged to submit proposals. Award of this contract will be conditioned upon satisfying the requirements of this proposal. These requirements apply to all offerors, including those who qualify as a DBE. A DBE contract goal will be identified pursuant to the federal funding requirements for an individual task order established for this contract. The offeror shall make good faith efforts, as defined in Appendix A, 40 CFR Part 26, to meet the contract goal for DBE participation in the performance of this Agreement.

The Consultant will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the offeror's commitment to use a DBE subconsultant whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. The offeror shall submit the information with its proposal as a condition of responsiveness.

DBE participation in this contract may be in the form of a prime contract, subcontract, joint venture, or other arrangement that qualifies under 49 CFR Section 26.55 or 26.53(g), both of which will be submitted on a Letter of Intent to the Owner.

**6.2 TERMINATION FOR CANCELLATION OF GRANT.** Should this Agreement be terminated as a result of cancellation of federal funds covering this Project, the Owner shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to such date, upon furnishing the Owner a progress report and an invoice to such date, and upon acceptance of the work by the Owner.

# 6.3 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT.252, 42 U.S.C. 2000D TO 2000D-4 AND TITLE 49, CODE OF FEDERAL REGULATIONS, DEPARTMENT OF TRANSPORTATION.

During the performance of this contract, Consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "Consultant") agrees as follows:

- (1) **Compliance with Regulations**: Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination**: Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. ADP shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national

origin.

- (4) **Information and Reports**: Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by Client to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information Consultant shall so certify to Client, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance**: In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, the Client shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:
  - a. Withholding of payments to the Consultant under the contract until the Consultant complies, and / or
  - b. Cancellation, termination or suspension of the contract in whole or in part.
- (6) **Incorporation of Provisions:** Consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directive issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Client may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request Client to enter into such litigation to protect the interests of Client and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

#### ARTICLE VII. GENERAL PROVISIONS

7.1 CONTRACT TIME. Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within Attachment "D". It is acknowledged that the Consultant does not have control over all aspects of the design and construction process and cannot warrant that it will complete all services and deliverables by a certain date. The Consultant shall timely notify the City Engineer of any delay beyond its control and the City Engineer shall extend the time schedule in the event of delays which the City Engineer reasonably determines are beyond the control of the Consultant.

**7.2 OPINION OF PROBABLE COST.** As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within ten percent (10%) of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent** (10%), the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations

**7.3 CONSULTANT'S QUALITY OF WORK.** The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional service. The Consultant's services shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect and the orderly progress of the Project and in accordance with the time periods established in Attachment "D" and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner.

7.4 **COPYRIGHT AND REPRODUCTION RIGHTS.** Upon payment of amounts due, the Drawings, Specifications, concepts and design, and other documents prepared by the Consultant for this Project including, without limitation, those in electronic form (sometimes referred to as the "Instruments of Service") are the property of the Owner, who shall be vested with all common law and statutory rights. The Owner shall have the right to the use of the Drawings, Specifications and other documents for the maintenance, repair, remodeling and renovation of the Project; provided however the Consultant shall have no liability for any use of one or more of the Instruments of Service by the Owner for maintenance, repair, remodeling and renovation of the project. The Owner has the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the Drawings, Specifications, concepts and design, and other documents. The rights granted to the Owner herein for the use of the Drawings, Specifications and other documents for additional projects, other than the construction of the Project, shall not grant the Owner any right to rely upon the Consultant's seal on the Drawings and Specifications or to hold the Consultant responsible for any subsequent use of the Drawings, Specifications and documents. The Consultant shall provide the Owner with copies of the Instruments of Service in both electronic form and in hard copy.

**7.5 AUDITING RECORDS FOR THE SPECIFIC PROJECT.** Consultant's records subject to audit shall include but not be limited to records which, have a bearing on matters of interest to the Owner in connection with the Consultant's work on this Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant's records have been generated from computerized data, Consultant agrees to provide Owner's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times (limited to Consultant's office hours) and places upon reasonable notice.

### 7.6 CONTRACTING INFORMATION

The Contractor must preserve all contracting information related to this Contract as provided by the records retention schedule requirements applicable to the City for the duration of this Contract. Contractor will promptly provide the City any contracting information related to this Contract that is in the custody or possession of the Contractor on request of the City. On completion of this Contract, Contractor will either provide at no cost to the City all contracting information related to this Contract that is in the custody or possession of the Contractor or preserve the contracting information related to this Contract that is in the custody or possession of the Contractor or preserve the contracting information related to this Contract as provided by the records retention requirements applicable to the City.

**7.7 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

**7.8 VENUE.** For the purpose of determining 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.

**7.9 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

**7.10 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.

**7.11 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

**7.12 NOTICES.** Any notice, demand, request, 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, to the following addresses:

To the Owner:	The City of El Paso Attn: City Manager P. O. Box 1890 El Paso, Texas 79950-1890
With a Copy to:	The City of El Paso Attn: City Engineer P. O. Box 1890 El Paso, Texas 79950-1890
To the Consultant:	STANTEC CONSULTING SERVICES, INC. Attn: Peer F. Chacko AICP Principal-in-Charge, planning & Urban Design Leader 6080 Tennyson Parkway, Ste. 200 Plano, TX 75024

Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

**7.13 CONFLICTING PROVISIONS.** Any provision contained in any Attachments to this Agreement, which may be in conflict or inconsistent with any of the provisions in this Agreement shall be void to the extent of such conflict or inconsistency.

**7.14 ENTIRE AGREEMENT.** This Agreement, including attachments, constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement shall not be amended or modified, except by written amendment, executed by both parties.

**7.15 TEXAS GOVERNMENT CODE**. In accordance to Chapter 2274 of the Texas Government Code, as amended from time to time, the Consultant represents and warrants to the Owner the following: (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Consultant will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

#### WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

#### **CITY OF EL PASO:**

Tomás González City Manager

**APPROVED AS TO FORM:** 

Brito

Assistant City Attorney

Roberta Brito

#### **APPROVED AS TO CONTENT:**

Jerry DeMuro/for Yvette Hernandez, P.E., City Engineer

**Capital Improvement Department** 

#### ACKNOWLEDGMENT

THE STATE OF TEXAS § § § **COUNTY OF EL PASO** 

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Tomás González, as City Manager of the City of El Paso, Texas.

**Notary Public, State of Texas** 

My commission expires:

(Signatures begin on following page)

#### **CONSULTANT:**

P fak dauf

Digitally signed by Peer Chacko Date: 2022.11.16 09:15:31 -06'00'

By: \_\_\_\_\_ Name: Peer Ch

Name: Peer Chacko Title: Principal-in-Charge

#### ACKNOWLEDGEMENT

## THE STATE OF TEXAS § COUNTY OF Collin §

This instrument was acknowledged before me on this <u>May of November</u>, 2022, by Peer Chacko Principal-in-Charge, on behalf of Consultant.

AMANDA LEE WEAVER My Notary ID # 129063412 Expires August 12, 2024

Notary Public, State of Texas

My commission expires:

vgust 12,2024

#### ATTACHMENT "A" SCOPE OF SERVICES

#### ONGOING PROJECT OVERSIGHT AND MANAGEMENT

- **Task 000 Project management:** Stantec will provide continual project oversight and management from start to finish, spanning two project phases to ensure collaboration and seamless coordination among all contributors to the work, communication and status reporting with the client, and coordination with external agencies including TxDOT (Texas Department of Transportation). This task will include the following sub-tasks:
  - Project management setup including file-sharing, billing, and communication protocols.
  - Develop and maintain a detailed project schedule
  - Ongoing invoicing and project progress reporting
  - Ongoing project coordination and communication
    - Client coordination and project status meetings
    - Consultant team coordination meetings
    - Critical milestone review meetings
    - Coordination with TxDOT El Paso District and other external agencies
  - Ongoing QA/QC following Stantec's four-step process including quality control, interdisciplinary coordination reviews, constructability reviews, and quality assurance.

#### Task 000 Deliverables:

- Biweekly client meetings with agenda and minutes
- Biweekly consultant team meetings
- Monthly TxDOT & other critical agency coordination meetings
- Monthly invoices and project progress reports

#### PHASE 1: FULL DECK PLAZA CONCEPTUAL DESIGN & FEASIBILITY EVALUATION

Phase 1 will focus on establishing a contextual framework, defining conceptual design and programming considerations for a Full Deck Plaza (Prospect to Campbell) to address community needs, and high-level/ feasibility evaluation of Full Deck Plaza concepts in terms of order-of-magnitude cost and revenue generating capability as well as other community benefits. Phase 1 will culminate in definition of a potentially feasible Deck Plaza design concept and programming strategy to be carried forward for schematic design and more detailed economic feasibility and environmental documentation and review in Phase 2. During Phase 1, alternative conceptual Deck Plaza designs and programs will be explored only to the extent necessary to enable comparative review and to inform definition of a potentially viable Deck Plaza concept. Existing data will be relied upon from TXDOT, the El Paso Downtown Uptown Plan and other relevant sources to the maximum extent possible. The City of El Paso will lead community engagement for this process and the consultant team will provide support.

Task 100 – Community Engagement: Community engagement efforts will focus on keeping the community informed about exploration of Deck Plaza concepts in the context of the ongoing Reimagine I-10 project led by TxDOT (Texas Department of Transportation), and on identifying community needs and aspirations that can be advanced through development of a Full Deck Plaza. Community engagement will be handled primarily by the City. The consultant team will prepare and

deliver presentations at stakeholder committee meetings (Deck Plaza Foundation) and technical committee meetings (City and other agency staff), develop agendas and meeting notes, and make revisions based on input received. The consultant team will also prepare presentation materials and communication copy for one public meeting to be hosted by the City of El Paso and will attend the meeting to help present and respond to questions. This task will include the following sub-tasks:

- o Stakeholder and Technical Committee meetings (3 joint or concurrent meetings)
- Public meeting: One public meeting will be held in an appropriate format during Task 400 Full Deck Plaza Design Concepts and Development Scenarios Evaluation

#### Task 100 Deliverables:

- Stakeholder and Technical Committee presentations, agendas, and meeting notes
- Public meeting presentation and materials
- Task 200 Market & Soft Site Development Study [HR&A]: In the early stages of the project HR&A will conduct a market study of the Downtown El Paso real estate market utilizing to the extent possible prior market analyses done in the context of the Downtown-Uptown Plan. We will review development across office, multifamily residential, hotel, and retail product types with the purpose of evaluating trends in absorption, price point, and future demand. We will also perform a demographic analysis of the Downtown residential and worker markets to evaluate demand trends. We will conduct targeted conversations with real estate developers, brokers, and other market experts. HR&A will also categorize underutilized sites in proximity to the proposed deck alternatives (likely ¼ mile from the boundaries) and create a methodology for assessing the development potential with and without the existence of a Full Deck Plaza (Build and No-Build Scenarios). Collectively this analysis will provide takeaways regarding potentially supportable land uses and programming in the immediate vicinity of the future deck park along with key inputs into the concurrent study of economic impact. We will leverage sources including CoStar, ESRI Business Analyst, Social Explorer, and local real estate assessment data to complete this study. The purpose of these analyses will be to provide market-based parameters for two key factors in evaluating Full Deck Plaza feasibility.
  - o Development potential within the boundaries of a highway over-build
  - Development potential within a larger area with the potential to be impacted by the deck investment

#### Task 200 Deliverable:

- Market & Soft Site Development Study Report
- Task 300 Deck Plaza Contextual Framework: This task provides the basis for definition of Full Deck Plaza concepts within the context of the surrounding Downtown-Uptown area and TxDOT's preferred alternative for Reimagine I-10. Grounded in the community's vision and goals derived from the City of El Paso's Downtown-Uptown Plan (DTUP), and informed by input and feedback from the stakeholder and technical committees, the framework will define the parameters that will

guide the development and evaluation of design concepts and scenarios to support a potential Full Deck Plaza in Task 400. This task will include the following sub-tasks:

- DTUP integration: Summary of relevant analyses, stakeholder input, community sentiment, planning concepts, and recommended strategies based on review of the Downtown-Uptown Plan, including:
  - Land use and urban design patterns
  - Public realm network
  - Neighborhood character
  - Community resources
  - Demographic profiles
  - Mobility networks and opportunities
  - Development priorities and opportunities
  - Regulatory recommendations
- Site conditions analysis: High-level assessment of site and immediate surroundings and identification of opportunities and constraints likely to impact definition of a Full Deck Plaza concept in the context of TxDOT's preferred alignment for the Reimagine I-10 project. This will be a planning and urban design-level analysis that will rely upon fieldwork and existing site data provided by TxDOT and the City of El Paso. It will also involve high-level engineering consultation (including Civil, Structural, Lighting and Geotechnical engineering disciplines) limited to identifying key technical factors that may impact definition of a Full Deck Plaza concept. This sub-task will also include an assessment of opportunities and constraints that would impact the feasibility of extending a Full Deck Plaza west of Santa Fe Street to Prospect Street.
- Precedent benchmarks: Case study benchmarking based on review and assessment of freeway deck and central urban open space concepts at comparable scales and in comparable contexts. This assessment would also include order-of-magnitude cost comparisons.
- Project vision, goals and priorities: Statement of vision, goals and priorities for the deck's potential role in the neighborhood and the larger community based on the Downtown-Uptown plan and input from the stakeholder and technical committees.

#### Task 300 Deliverables:

- Deck Plaza Contextual Framework Report: The team will compile a summary report that consolidates sub-task findings, including synthesizing insights to establish a unified conceptual foundation for definition and evaluation of a Full Deck Plaza concept and related development scenarios.
- Task 400 Full Deck Plaza Design Concepts and Development Scenarios Evaluation: This task will be done in tandem with Task 500 and will develop programming and design concepts for a full Deck Plaza, explore alternative development scenarios in the vicinity, and conduct high-level, order-ofmagnitude evaluation of deck programming and design concepts and surrounding development scenarios. This task will include the following sub-tasks

- Alternative scenario development: This will include definition of up to three (3) alternative scenarios in terms of deck program and design concepts combined with compatible surrounding land use mixes and densities, accommodating a combination of civic and noncivic/revenue-generating uses. These scenarios will be developed at the level of detail necessary to enable performance of a high-level, order-of-magnitude comparative evaluation and feasibility assessment.
- Scenario evaluation and feasibility assessment: The development scenarios for the deck and surroundings will be evaluated in terms of high-level, order-of-magnitude costs and benefits geared towards identifying, if possible, a Full Deck Plaza program and design concept and an associated development scenario that has the best chance of meeting community expectations in terms of desired public benefits while achieving an acceptable level of longterm economic viability. The evaluation will address a range of perspectives and concerns which will be established and defined based on the outcomes of Task 300, potentially including the following considerations:
  - Cost and technical feasibility: This metric will involve Civil, Structural, Tunnel Systems, Lighting and Geotechnical Engineering disciplines. This task will rely on data provided by TxDOT or City of El Paso and will not involve any survey, utility or geotechnical data gathering.
  - Urban design and placemaking
  - Mobility and accessibility
  - Equity and economic development
  - Community culture and neighborhood preservation
  - And/or additional City objectives

#### Task 400 Deliverables:

- Documentation of alternative full Deck Plaza program/design concepts, comparative evaluation, and preferred program/design concept selection.
- Task 500 Real Estate Impact and Value Capture Study [HR&A]: In tandem with Task 400 and in contribution to the evaluation of alternative full Deck Plaza design and programming concepts and surrounding development scenarios, HR&A will conduct a real estate and fiscal impact analysis of a Full-Length Deck Plaza with consideration of variations within this deck configuration in terms of development and programming on the deck spans and surroundings. High quality public open spaces provide a range of benefits to city residents, visitors, employers, and property owners. The assumptions for this impact analysis will be informed by benchmarking the impacts that other comparable projects (including urban deck parks and other large-scale infrastructure and park investments) have experienced. We will work with the team and the City in coordination with Task 300 to identify relevant precedents and evaluate their economic, real estate, fiscal, and community impacts where such data is available. Drawing on the concurrent market and soft site development study described in Task 200, we will evaluate and quantify the following impacts:
  - Real estate value impacts, including the potential premium on existing property in proximity to the park investment and impacts on development pace and value, along with the

potential value associated with development on the deck structure as well as the viability of using the deck for real estate development. We will apply assumptions regarding the development potential of the underutilized sites identified in Task 200 to offer aggregate (not parcel-level) estimates of the potential impact of the Deck Plaza on development and development value over time.

 Value of incremental property tax associated with the real estate impacts described above and other sources of real estate value such as value of disposition and/or development of public parcels.

#### Task 500 Deliverables:

- Real Estate Impact and Value Capture Study Report
- Contribution to comparative evaluation of full Deck Plaza design/program concepts and surrounding development scenarios in Task 400.
- Task 600 Preferred Full Deck Plaza Design Concept Recommendations/Pre-Design Report: This task completes the Phase 1 process to provide a formal statement of a preferred deck plaza program and design concept and surrounding development scenarios for City Council consideration and would prepare the project's transition to schematic design in Phase 2. This task focuses on developing pre-schematic design documentation of the preferred deck plaza design and programming concept and will include the following sub-tasks:
  - Preferred deck design and program concept documentation: Conceptual design diagrams and descriptions of proposed use of the deck plaza and its immediate surroundings. This task is limited to compilation, integration, and summary of the results of the previous tasks in Phase 1.
  - Optional Subtask: Supportive land development policy recommendations: Broader policy strategies and regulatory recommendations to bolster the deck investment's benefits to the community and mitigate impacts and conflicts, such as addressing issues around potential housing displacement, gentrification, environmental justice, local business development, and more. Recommendations will be presented at a preliminary level of detail as prompts for further development by the City and/or other stakeholders and policymakers during and after the deck's implementation. This is proposed as an optional subtask to be provided at additional cost as shown in the summary budget.
  - <u>Optional Sub-Task</u>: Supportive multimodal mobility recommendations: Planning-level recommendations for multimodal mobility and accessibility in the context of TXDOT's Reimagine I-10 preferred alternative and the preferred deck alternative. This sub-task would identify potential design considerations for the preferred deck alternative and the immediate surroundings in terms of enhancing multimodal connections and access to potential deck-related amenities, opportunities for retaining, removing, or replacing existing parking, as well as recommendations for updates to existing City plans. This has been proposed as an optional sub-task to be provided at additional cost as shown in the summary budget.

 Pre-design due diligence: This sub-task will include a more detailed landscape architecture and engineering assessment of the preferred Deck Plaza concept in the context of existing conditions and TxDOT's preferred Reimagine I-10 alternative to identify key technical design issues and considerations prior to formal selection of the preferred design concept. The assessment will include Landscape Architecture, Civil, Structural and Illumination disciplines.

#### Task 600 Deliverable:

• Preferred Full Deck Plaza Concept Recommendations/Pre-Design Report.

#### PHASE 2: FULL DECK PLAZA SCHEMATIC DESIGN AND ENVIRONMENTAL REVIEW/DOCUMENTATION

Phase 2 will focus on preparing 30% schematic designs for the selected Full Deck Plaza conceptual design and programming strategy that emerges from the Phase 1 evaluation process, while developing a funding and implementation strategy and conducting more detailed economic feasibility assessment. Additionally, Phase 2 will take this project through the necessary NEPA (National Environmental Policy Act) environmental documentation and review process.

- Task 100 Landscape Architecture Schematic Design: Based on the Full Deck Plaza design concept selected in Phase 1, our team of Landscape Architects will develop sections, sketches, and other illustrative materials to convey the character of the final deck plaza and associated streetscape improvements for communication to a general audience as well as to inform engineering design at the schematic level. The objective is to prepare documents that recognize the importance of aesthetics and functionality, and the integration of infrastructure, design, and landscape in shaping the project. This task will include the following sub-tasks at the schematic design level:
  - Deck plaza and definition of major areas, types, and programming of open space
  - o Streetscape design including prototypical street cross sections
  - Water features and shade devices
  - Hardscape and site furnishings
  - Site grading and ADA compliance
  - Planting concepts
  - Wayfinding, signage, branding and public art
  - o Green infrastructure (drainage/utilities/stormwater)
  - Site and pedestrian lighting design
  - Deck evaluation/planting and load ratings
  - Visualizations to convey the character of the proposed site development to a general audience.

#### Task 100 Deliverable:

- Draft 30% Schematic drawings of deck plaza and streetscapes
- Final 30% Schematic design of deck plaza and streetscapes

- Task 200: Civil Engineering Schematic Design: This task includes developing necessary design base files and schematic roll plot of the preferred deck plaza concept and associated improvements in coordination with the Landscape Architecture team. There would be no significant difference in the civil design procedure between the alternatives. This task will include the following sub-tasks
  - Plan and profile layout and typical sections
  - Preliminary 3-D Open Roads model of proposed civil design features
  - Verification of Right-of-Way needs.
  - Construction cost estimate
  - Construction sequencing, including plan layout, typical sections, and descriptions of work activities and traffic management in each stage.

#### Task 200 Deliverables:

- Preliminary schematic design
- Final Schematic Design Roll Plot
- Construction Cost Estimates
- Construction sequencing Roll Plot
- Task 300: Structural Schematic Design: The scope of this task would vary based on the preferred deck plaza design concept selected in Phase 1. Schematic design will include deck, beams, walls, piers and foundations.

#### Task 300 Deliverables:

- Schematic design for structural elements with plan, elevation and sections as shown in rendering plans.
- Task 400 Tunnel Systems: This task includes review of schematic design and recommendations for compliance with National Fire Protection Association (NFPA) 101 Life Safety Code and NFPA 502 Standard for Road Tunnels, Bridges, and Other Limited Access Highways (2020 Edition), including ventilation, electrical, communications, drainage, emergency egress, tunnel passive fire protection, etc.
  - Optional Sub-Task Computational Fluid Dynamics (CFD) Simulation Analysis: As per requirement of NFPA 502 it is mandatory to investigate whether tunnel ventilation system is necessary or not, if the tunnel is a specific length. Furthermore, the tunnel ventilation system is the core system for providing passenger's safety during an emergency all along the evacuation path. The evacuation path is from anywhere inside the tunnel to the point of safety, which must be defined in an early stage of the project (with consideration of the structures close to the tunnel, like buildings, highways, troughs etc.) By using modern 3dimentional CFD analysis it is possible to consider the full geometry of the tunnel system including ramps, the slope of the tunnel and the cross-sectional profile of the tunnel. The results of CFD simulations give a deep insight into the flow and smoke behavior during an emergency and thus, are very important for safety design in an early stage of the project.

CFD simulation analysis is not mandatory, however, we strongly recommend this analysis be performed in Phase 2. It is acceptable to do the CFD analysis at later stages of the project during detailed engineering design, however, it is generally better to do the CFD simulation at earlier stages. This also helps to define the tunnel category for the authority having jurisdiction (especially for the cantilever deck option). This subtask has been identified as optional to be provided at additional cost as shown in the summary budget. In the case that the feasibility study is done without CFD simulation, the ventilation system will be designed at the schematic level to comply with NFPA 502 based on estimates of quantity, location etc.

#### Task 400 Deliverables:

- Internal comments to schematic design team regarding layouts, models, and code compliance
- Documentation relating to Fire and Life Safety (FLS) components for Schematic Design Draft Report, Schematic Design Final Report
- **Task 500 Illumination:** Develop illumination schematic for the preferred Full Deck Plaza concept in collaboration with the landscape architecture team and input from the public, pre-design report, and conceptual design. This task includes reviewing requirements for pedestrian and area illumination and electrical requirements for illumination.
  - <u>Optional Sub-Task Solar and LEED/Green Globe for Lighting</u>: Design recommendations for Solar and LEED/Green Globe certification for lighting can be provided as an optional sub-task at additional cost as shown in the summary budget.

#### Task 500 Deliverables:

- Internal technical illumination memo
- Schematic Design Preliminary
- Schematic Design Final
- Task 600 Community Engagement: Community engagement will be handled primarily by the City. The consultant team will prepare presentation materials and communication copy for a public meeting to be hosted by the City of El Paso and will attend the meeting to help present and respond to questions. The consultant environmental team will provide expertise to ensure compliance with NEPA (National Environmental Policy Act) requirements and that appropriate documentation is prepared. This task will include the following sub-tasks:
  - Preparation of public meeting presentation and display materials and notification copy
  - o Documentation of community engagement for the environmental review process

#### Task 600 Deliverables:

- Presentation and display materials
- Community engagement documentation

- Task 700 Environmental Documentation and Review: Environmental documentation for compliance with NEPA (National Environmental Policy Act) is anticipated to be covered by a categorical exclusion. The NEPA process will begin upon completion of preliminary schematic drawings for the preferred deck plaza and associated roadway improvements. The following technical reports and analyses will be completed and will include the following sub-tasks:
  - Project management, environmental scoping, and coordination
  - Work Plan Development I and II
  - Hazardous Materials Initial Site Assessment (ISA)
  - Archeological Background Report
  - Historic Project Coordination Request (PCR)
  - Biological Resources Documentation
  - Community Impacts Analysis
  - Public involvement (includes one public meeting conducted to meet TxDOT/NEPA standards as part of Task 600)

#### Task 700 Deliverables:

- Draft and Final NEPA Documentation
  - Work Plan Development I and II
  - Hazardous Materials ISA
  - Archeological Background Report
  - Historic PCR
  - Biological Resources Documentation
  - Community Impacts Analysis
  - Public Meeting Documentation
- Task 800 Funding & Implementation Strategy [HR&A]: Following selection of a preferred Full Deck Plaza concept and during initial schematic design and programming tasks, HR&A will develop an implementation strategy and action plan. Referencing comparable projects, financing tools available in El Paso and the State of Texas, and the needs of the project, HR&A will provide initial implementation guidance on factors related to value-capture and potential revenue generation including:
  - Public-Private Partnership Strategy
  - Capital Funding and Financing
  - Project Governance
  - Programming Strategy
  - Operations and Maintenance Funding
- <u>Optional Task External Funding Availability Evaluation [Stantec]</u>: Stantec would research and assess external funding options available to the City of El Paso for the I-10 Deck Plaza and develop a list of available funding options outlining key characteristics of each funding program including eligibility, timing, application requirements, funding availability, competitiveness, compliance requirements and program contracts. Working with the City we will develop a specific strategy and action plan to pursue viable external funding options, with special consideration given to timing,

funding program capital available, level of effort, and compliance requirements. In addition to existing programs, our evaluation of funding options will consider and articulate emerging funding trends, highlighting opportunities to position for future program modifications and new funding programs.

#### Task 800 Deliverable:

- Funding & Implementation Strategy Report.
- Task 900 Five-Year Pro Forma [HR&A]: HR&A will lead the development of a detailed 5-year pro forma operating model for the operations and maintenance of the selected deck park design. HR&A will rely on comparable precedent park budgets and the project team design partners to develop assumptions regarding operating costs associated with the physical program and programming vision for the deck park. We will identify and quantify potential revenue sources, including event and rental revenue, lease revenue, value capture, membership fees, philanthropy, and public funding, evaluating the potential of these sources and remaining gap for project leadership to consider, likely requiring additional public operating subsidy, at least in the early years of the project.

#### Task 900 Deliverable:

• Five-Year Pro Forma Report.

#### PROJECT SCOPE ASSUMPTIONS AND LIMITATIONS

- This scope assumes that only one physical deck plaza configuration, namely the Full Deck Plaza (Prospect to Campbell) configuration will be considered and evaluated. While phasing concepts may be considered as part of potential implementation strategies, consideration and evaluation of substantially different physical deck configurations that would impact the technical and economic impact and feasibility of the project are not included in this scope.
- Evaluations conducted during Phase 1 are assumed to be high-level, order of magnitude evaluations as appropriate for conceptual work, while analyses conducted during Phase 2 are assumed to be more detailed as appropriate for the 30% schematic design phase. Phase 1, Task 300 of the process provides for making a determination on the definition of parameters for development and evaluation of concepts and scenarios. However, unpredictable circumstances during the planning process, such as community input that may cause changes in approach, may lead to the need for more detailed analyses in Phase 1. Flexibility is needed to reallocate resources between phases and tasks, if the overall scope is unaffected, or to provide additional resources if warranted. Reallocation of resources between phases and tasks would be undertaken through discussion and consensus between the City of El Paso and the Stantec Consultant Team.
- The City will be primarily responsible for Community engagement. This scope assumes that the consultant team's role would be limited to providing presentation/display materials for meetings, participating in presentations, and assisting with responses to questions. The public involvement

costs in this proposal do not include the cost of a venue, the cost of the public meeting notice mailouts, the cost of the public meeting notification publication, or any other direct costs associated with public involvement. For the purpose of this proposal, we have assumed the following engagement events:

- Phase 1: Three (3) separate or concurrent Deck Plaza Foundation and City Technical Staff meetings, plus one (1) public meeting.
- Phase 2: One (1) public meeting.
- The development and evaluation of Full Deck Plaza scenarios during Phase 1 will be conducted using data provided by the City of El Paso, TxDOT and other sources. This scope does not provide for the verification and detailed analysis of this data and the consultant team will rely upon the accuracy of the data provided. Engineering analysis of scenarios will be based on high-level order of magnitude conceptual layouts and estimates.
- Timely City sign-off will need to occur at critical milestones in the process to keep the overall project schedule on track. This proposal assumes the following review and approval timeframes:
  - Preliminary conceptual Full Deck Plaza scenarios: Staff level sign-off with 2-week turnaround
  - Preferred Full Deck Plaza concept and scenario: Staff and City Council level sign-off with 3week turnaround
  - Preliminary schematic design for the Full Deck Plaza: Staff and City Council level sign-off with
     3-week turnaround
- Timely TxDOT review and sign-off: The consultant project management team in conjunction with City staff will schedule regular project review with TxDOT El Paso District and TxDOT sign-off would be necessary at the key milestones identified above. We assume that TxDOT review and sign-off can occur concurrently with City review and sign-off.
- Economic Analysis: The economic analysis component of this proposal will utilize prior work done through the Downtown-Uptown Plan related to area-wide market analysis. The assumption is that although the prior market analysis will provide a useful backdrop, data analysis in terms of market potential and impacts for a more narrowly defined area in relation to the Full Deck Plaza would need to be conducted as part of Phase 1. The scope also provides for using the soft-site identification from prior Downtown-Uptown work and performing additional typology categorization and development analysis for prototype sites in order to arrive at value impacts.
- For the purpose of this scope, 30% Schematic Design of the Full Deck Plaza concept is assumed to be consistent with TXDOT's definition of 30% Schematic Design for the Reimagine I-10 project. Stantec does not assume responsibility for the work of others in the production of construction documents beyond the 30% Schematic Design stage.
- The Landscape Architecture scope assumes the following:
  - Special presentation graphics such as renderings, perspectives, models, or displays shall be Additional Services or Reimbursable Costs, as appropriate. Such services or costs shall be approved in advance by the Client.
- The Civil Design scope assumes the following:
  - The schematic design, including plan layout, profiles, and typical sections, will be shown on a roll plot.

- The construction sequencing layout will be shown on a roll plot. The construction sequencing will be based on either construction concurrent with TxDOT's I-10 project or construction after TxDOT's I-10 project but not both scenarios.
- The Structural Design scope assumes the following:
  - The Structural Design scope will include high-level, order-of-magnitude evaluation of Full Deck design concepts in Phase 1.
  - o The Structural Design team will design the preferred Full Deck concept only
  - The structural items will be shown on schematic roll plots. The scope does not include provision of detailed CAD (Computer Aided Design) drawings.
- The Tunnel Systems scope assumes the following:
  - Schematic design will cover description and schematic drawings for the Full Deck Plaza concept only
  - No detailed drawings will be prepared.
  - Interface will be at the tunnel portal.
- The Illumination scope assumes the following:
  - Photometric analysis will not be performed, only conceptual layouts will be prepared based on the typical spacing
- The Geotechnical scope assumes the following:
  - The deliverable will be a high-level assessment of potential subsurface conditions and their influence on the planned project.
  - No formal geotechnical design parameters or specific recommendations will be presented.
  - Conceptual deep foundations will be described (without design parameters)
  - Conceptual retaining walls will be described (without design parameters)
- The Environmental Services scope assumes the following:
  - TxDOT environmental clearance/documentation for the larger I-10 roadway project would take precedence for NEPA coverage of direct impacts associated with that work
  - The level of effort provided is additional to the other project and the Deck Plaza documentation would not cover mitigation for direct impacts for the roadway project, other than those that would be specifically resulting from the Deck Plaza effort
  - The consultant environmental team will provide coverage for Phase 2 community engagement including documentation for the purposes of NEPA submittals. Public involvement requirements for a CE (Categorical Exclusion) are lower than for an EA (Environmental Assessment), yet a Deck Plaza might generate specific interest from the public, so proactive public engagement would be advisable. The Stantec environmental team will assist with verifying if the City would get 'credit' for NEPA compliance from TxDOT's point of view.

#### ATTACHMENT "B" CONSULTANT'S FEE PROPOSAL AND HOURLY RATES

#### **BUDGET SUMMARY**

City of El Paso Deck Plaza Feasibility Study RFQ #2022-0740R

		Sta	antec Cons	sulting	Services, l	nc.					
Task Task Descriptions		Stantec		HR&A	A Advisors		FXSA		ILF		Total
Task	Task Descriptions	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost
0	PROJECT MANAGEMENT	667	\$160,672							667	\$160,672
Phase 1	Full Deck Plaza Conceptual Design & Feasibility Eva	luation									
100	COMMUNITY ENGAGEMENT	176	\$36,160							176	\$36,160
200	MARKET & SOFT SITE DEVELOPMENT STUDY	18	\$4,613	295	\$75,000					313	\$79,613
300	DECK PLAZA CONTEXTUAL FRAMEWORK	200	\$61,630			20	\$2,980			220	\$64,610
400	FULL DECK PLAZA CONCEPTS & DEVELOPMENT SCENARIO EVALUATION	724	\$143,462							724	\$143,462
500	REAL ESTATE IMPACT & VALUE CAPTURE STUDY			380	\$100,000					380	\$100,000
600	PREFERRED FULL DECK DESIGN CONCEPT RECOMMENTATIONS/PRE-DESIGN REPORT	206	\$44,928							206	\$44,928
1000	EXPENSES		\$16,743		\$3,750						\$20,493
	Subtotal	1,991	\$307,536	675	\$178,750	20	\$2,980	0	\$0	2,019	\$489,266
Phase 2	Preferred Alternative Schematic Design & Environm	ental Re	eview								
100	LANDSCAPE ARCHITECTURE	968	\$142,652							968	\$142,652
200	CIVIL ENGINEERING	456	\$73,688			138	\$19,455			594	\$93,143
300	STRUCTURAL DESIGN	400	\$70,448							400	\$70,448
400	FIRE/LIFE SAFETY/TUNNEL SYSTEMS	39	\$11,504					635	\$96,180	674	\$107,684
500	ILLUMINATION	458	\$62,739							458	\$62,739
600	COMMUNITY ENGAGEMENT	162	\$29,684							162	\$29,684
700	ENVIRONMENTAL DOCUMENTATION & REVIEW	466	\$46,286							466	\$46,286
800	FUNDING & IMPLEMENTATION STUDY	8	\$1,512	100	\$30,000					108	\$31,512
900	FIVE-YEAR PRO-FORMA			295	\$75,000					295	\$75,000
1000	EXPENSES		\$8,949		\$3,750						\$12,699
	Subtotal	2,957	\$447,462	395	\$108,750	138	\$19,455	635	\$96,180	4,125	\$671,847
	Total Project Costs		\$ 915,670		\$ 287,500		\$ 22,435		\$ 96,180		\$ 1,321,785
	Percentage Breakdown (Cost)		69.3%		21.8%		1.7%		7.3%		
									-		
Optional											
Phase 1	PREFERRED SCENARIO - SUPPORTIVE LAND DEVELOPMENT POLICY RECOMMENDATIONS	88	\$18,282							88.00	\$18,282
	PREFERRED SCENARIO - SUPPORTIVE MULTIMODAL MOBILITY RECOMMENDATIONS	48	\$8,887							48.00	\$8,887
Phase 2	CFD ANALYSIS FOR TUNNEL VENTILATION							124	\$41,100		\$41,100
	SOLAR, LEED/GREEN GLOBE FOR ILLUMINATION	52	\$10,416							52.00	\$10,416
	EXTERNAL FUNDING AVAILABILITY EVALUATION	50	\$10,000							50.00	\$10,000
	Total Optional Items Cost		\$ 47,585						\$ 41,100		\$ 88,685

#### Stantoc Consulting Services Inc

#### **EXHIBIT "B"** Confidential

#### HOURLY RATE SCHEDULE

PRIME PROVID	PRIME PROVIDER NAME: Stantec Consulting Services, Inc.												
	DIRECT LABOR												
LABOR/STAFF NAME		CLASSIFICATION/ ROLE	Overtime for Non- Exempt or Hourly Exempt (HE) Staff *	HOURLY BASE RATE ** from 9/1/2022 thru 12/31/2022		HOURLY CONRACT RATE from 9/01/2022 thru 12/31/2022		HOURLY BASE RATE ** from 1/1/2023 thru 12/31/2023		HOURLY CONTRACT RATE from 1/1/2023 thru 12/31/2023			
Ahmed	Annus	Structure/Bridge Design	HE	\$	49.52	\$	144.49	\$	51.50	\$	150.27		
Brod	Lauren	Senior Bridge/Structural Engineer	HE	\$	57.70	\$	168.35	\$	60.01	\$	175.09		
Broughton	Amy	Funding Strategies		\$	83.64	\$	244.04	\$	86.99	\$	253.80		
Calanche	Ernesto	Roadway/Civil Design	HE	\$	52.69	\$	153.74	\$	54.80	\$	159.88		
Carter	Dave	Traffic Anaylsis & Modeling		\$	90.60	\$	264.35	\$	94.22	\$	274.92		
Chacko	Peer	Principal-in-Charge		\$	88.94	\$	259.50	\$	92.50	\$	269.88		
Conner	David	3D Visualization and CADD	НО	\$	51.31	\$	149.71	\$	53.36	\$	155.70		
Cowan	Bradley	Deputy Project Manager; Landscape Arch		\$	64.64	\$	188.60	\$	67.23	\$	196.15		
Cowan	Brian	Hazmat/Environmental		\$	50.49	\$	147.32	\$	52.51	\$	153.21		
Dixon	David	Urban Design Lead; Planning and Urban Design		\$	110.58	\$	322.64	\$	115.00	\$	335.55		
Engineering-in- Training (EIT)	As Needed	Structures/Roadway/Civil	НО	\$	34.94	\$	101.95	\$	36.34	\$	106.02		
Environmental Analyst II	As Needed	Environmental		\$	-	\$	75.00	\$	-	\$	78.00		
Ewen	Travis	Landscape Architecture		\$	57.69	\$	168.32	\$	60.00	\$	175.06		
Fradkin	Steve	Tunnel Design/Ventilation /Fire Protection		\$	102.43	\$	298.86	\$	106.53	\$	310.82		
Mid-Sr. GIS Analyst	TBD	Environmental				\$	85.00	\$	-	\$	88.40		
Goudeau	Derrick	Lighting Engineering		\$	89.50	\$	261.14	\$	93.08	\$	271.58		
Guerrero	Joe	Senior CADD Operator	НО	\$	66.47	\$	193.94	\$	69.13	\$	201.70		
Hashemi Yazdi	Mona	Urban Planner	HE	\$	30.95	\$	90.30	\$	32.19	\$	93.92		
Irvin	Kyle	ITS/Traffic Studies		\$	87.47	\$	255.21	\$	90.97	\$	265.42		
Jahangiri	Jamshid	Project Manager; Transportation Engineering		\$	113.31	\$	330.61	\$	117.84	\$	343.83		
Janik	Ben	Sr. GIS Analyst		\$	52.38	\$	152.83	\$	54.48	\$	158.94		
Jin	Wei	Urban Designer	HE	\$	55.04	\$	160.59	\$	57.24	\$	167.02		
Kau	Lucas	Structural Engineering	HE	\$	74.52	\$	217.43	\$	77.50	\$	226.13		
LA-2 Staff	TBD	Landscape Architecture		\$	51.45	\$	150.12	\$	53.51	\$	156.12		
Lutz	David	Geotechnical Engineering		\$	87.96	\$	256.64	\$	91.48	\$	266.91		
Maldonado	Mark	Community Engagement		\$	88.95	\$	259.53	\$	92.51	\$	269.91		
Mann	Joel	Mobility		\$	64.15	\$	187.17	\$	66.72	\$	194.66		
Mann	Jane K.S. (Katie)	CADD Operator	НО	\$	28.50	\$	83.16	\$	29.64	\$	86.48		
МсСоу	Sarabrent	Urban Planner	HE	\$	38.32	\$	111.81	\$	39.85	\$	116.28		
Mirnami	Ali	Structure/Bridge Design	HE	\$	49.04	\$	143.09	\$	51.00	\$	148.81		
Nelson	Nels	Sustainability		\$	61.54	\$	179.56	\$	64.00	\$	186.74		
Nguyen	Giao	CADD	НО	\$	43.33	\$	126.43	\$	45.06	\$	131.48		
Parra	Claire	Environmental	HE	\$	28.19	\$	82.25	\$	29.32	\$	85.54		
Patterson	Susan	Community Engagement		\$	64.29	\$	187.58	\$	66.86	\$	195.08		

#### Confidential

#### HOURLY RATE SCHEDULE

PRIME PROVIDE		Star	ntec Consultir	•	vices, inc.						
			DIRECT LA			1				r	
LABOR/STAFF NAME		CLASSIFICATION/ ROLE	Overtime for Non- Exempt or Hourly Exempt (HE) Staff *	HOURLY BASE RATE ** from 9/1/2022 thru 12/31/2022		HOURLY CONRACT RATE from 9/01/2022 thru 12/31/2022		HOURLY BASE RATE ** from 1/1/2023 thru 12/31/2023		HOURLY CONTRAC RATE from 1/1/2023 thru 12/31/2023	
Peper	Heidi	Funding Strategies		\$	74.27	\$	216.70	\$	77.24	\$	225.37
Pittman	Rebecca	Landscape Architecture		\$	59.02	\$	172.20	\$	61.38	\$	179.09
Prada	Julian	Tunnel Design/Ventilation /Fire Protection		\$	99.89	\$	291.45	\$	103.89	\$	303.11
Reed	Emily	Historical Environmental		\$	52.38	\$	152.83	\$	54.48	\$	158.94
Reep	Kellie	Traffic Anaylsis & Modeling		\$	56.50	\$	164.85	\$	58.76	\$	171.45
Samara	Majd	Roadway/Civil Design	HE	\$	34.94	\$	101.95	\$	36.34	\$	106.02
Sandrock	David	Archaeology	HE	\$	36.06	\$	105.21	\$	37.50	\$	109.42
Sauser	Jeff	Urban Design		\$	64.36	\$	187.78	\$	66.93	\$	195.30
Scott	Brian	QA/QC - Constructability Reviews	HE	\$	64.91	\$	189.39	\$	67.51	\$	196.97
Smith	Brad	Project Engineer	HE	\$	62.20	\$	181.48	\$	64.69	\$	188.74
Snow	Jamie	Traffic Anaylsis & Modeling		\$	77.98	\$	227.52	\$	81.10	\$	236.63
Sorge	Gary	Landscape Architecture Lead		\$	122.14	\$	356.37	\$	127.03	\$	370.63
Sorto	Hector	Roadway/Civil Design	HE	\$	49.28	\$	143.79	\$	51.25	\$	149.54
Stewart	Ben	Brownfields		\$	69.83	\$	203.74	\$	72.62	\$	211.89
Swanton	Philip	QA/QC - Structures		\$	94.83	\$	276.69	\$	98.62	\$	287.76
Thapa	Laxman	ITS	HE	\$	65.69	\$	191.67	\$	68.32	\$	199.33
Thimmesch	Katherine	Project Engineer		\$	64.66	\$	188.66	\$	67.25	\$	196.21
Torres	Anamaria	Traffic Studies	HE	\$	50.55	\$	147.49	\$	52.57	\$	153.39
Vernon	Paul	Senior Urban Planner		\$	60.92	\$	177.75	\$	63.36	\$	184.86
Wadje	Nishant	Design Engineer	HE	\$	44.82	\$	130.77	\$	46.61	\$	136.00
WeiYih	Тее	Roadway/Civil Design	HE	\$	68.95	\$	201.18	\$	71.71	\$	209.22
Wesanen	Jeff	Civil Engineering		\$	89.53	\$	261.22	\$	93.11	\$	271.67
Yang	Shijia	Landscape Designer	HE	\$	25.24	\$	73.64	\$	26.25	\$	76.59
Yorek	Colt	Landscape Architecture		\$	49.33	\$	143.93	\$	51.30	\$	149.69
INDIRECT COST RATE:		165.25%									
PROFIT RATE:		10.0%									

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### City of El Paso Deck Plaza Feasibility Study RFQ #2022-0740R

9/6/2022

BCONSULTA	NT:	FXSA						
		 DIRECT LABO	R			-		
	CLASSIFICATION/ ROLE	RLY BASE RATE ** n 9/1/2022 thru 12/31/2022		JRLY CONRACT RATE n 9/01/2022 thru 12/31/22	IRLY BASE RATE ** m 1/1/2023 thru 12/31/23	HOURLY CONTRA RATE from 1/1/2023 the 12/31/2023		
	Program Manager/Principal	\$ 127.88	\$	382.81	\$ 133.00	\$	398.	
	Quality Manager	\$ 73.32	\$	219.49	\$ 76.25	\$	228.	
	CADD Operator - Senior	\$ 35.00	\$	104.77	\$ 36.40	\$	108.	
	CADD Operator - Junior	\$ 33.00	\$	98.79	\$ 34.32	\$	102.	
	GIS Technician - Senior	\$ 38.46	\$	115.13	\$ 40.00	\$	119.	
	GIS Technician - Junior	\$ 28.85	\$	86.36	\$ 30.00	\$	89.	
	Surveyor (RPLS) - Senior	\$ 79.09	\$	236.76	\$ 82.25	\$	246.	
	Surveyor (RPLS) - Junior	\$ 55.13	\$	165.03	\$ 57.34	\$	171.	
	Survey Technician (Surveyor-In-Training) - SIT	\$ 38.46	\$	115.13	\$ 40.00	\$	119.	
	Survey Technician	\$ 36.00	\$	107.77	\$ 37.44	\$	112.	
	Administrative/Clerical	\$ 21.64	\$	64.77	\$ 22.50	\$	67.	
	Abstractor (Property Deed Researcher, Courthouse or	\$ 54.09	\$	161.92	\$ 56.25	\$	168.	
	Survey Supervisor (Crew Chief)	\$ 40.87	\$	122.35	\$ 42.50	\$	127.	
	Survey Instrument Technician (Rodman)	\$ 25.00	\$	74.84	\$ 26.00	\$	77.	
	SUE Field Coordinator	\$ 48.08	\$	143.92	\$ 50.00	\$	149.	
	Senior Engineer	\$ 69.23	\$	207.24	\$ 72.00	\$	215.	
	SUE Technician	\$ 50.00	\$	149.68	\$ 52.00	\$	155.	
	SUE Designating Person	\$ 44.71	\$	133.84	\$ 46.50	\$	139.	
	1 Man Survey Crew	\$ 44.71	\$	133.84	\$ 46.50	\$	139.	
	2 Man Survey Crew	\$ 61.00	\$	182.61	\$ 63.44	\$	189.	
	3 Man Survey Crew	\$ 86.00	\$	257.44	\$ 89.44	\$	267.	
Overhead	1/2.14%							
Fee	10.00% or, overhead, and profit.							

### Confidential

Frank X Spencer and Associates Inc.

Utility Engineering & Coordination Services					
Services To Be Provided	<u>Unit</u>	Rate			
SUE (Quality Level C and D)					
Includes labor and equipment for records research, CADD, and mapping.	LF	\$ 0.68			
SUE (Quality Level B - Utility Designation)					
Includes labor and equipment for records research, designating, engineering, surveying, CADD mapping and limited traffic control.	LF	\$ 1.55			
<u>SUE (Quality Level A - Utility Locate, Test Holes)</u>					
Includes labor and equipment for vacuum excavation, engineering, surveying, CADD, and limited traffic control. These prices reflect that a Quality Level B service has been provided.					
Level A: 0 to 5 ft.	each	\$ 1,075.00			
Level A: > 5 to 8 ft.	each	\$ 1,450.00			
Level A: > 8 to 13 ft.	each	\$ 1,800.00			
Level A: > 13 to 20 ft.	each	\$ 2,300.00			
Level A: > 20 ft.	VF	\$ 205.00			
SUE Mobilization/Demobilization					
These costs are intended to be a one-time expense compensation for mobilizing/demobilizing personnel and equipment portal to portal. Vacuum excavation truck (non-local)	Mile	\$ 4.75			

### Confidential

### City of El Paso Deck Plaza Feasibility Study RFQ #2022-0740R

9/6/2022

HOURLY RATE SCHEDULE							
ore							
015							
from	HOURLY CONRACT RATE from 9/01/2022 thru 12/31/22		LY CONTRAC <sup>®</sup> RATE ** 1/1/2023 thru 2/31/2023				
\$	447.20	\$	465.09				
\$	419.55	\$	436.33				
\$	358.83	\$	373.18				
\$	320.18	\$	332.99				
\$	216.92	\$	225.60				
\$	165.61	\$	172.23				
\$	143.52	\$	149.26				
<b>i</b>							
	Ors HOUR from 9 \$ \$ \$ \$ \$ \$ \$ \$ \$ \$	HOURLY CONRACT RATE from 9/01/2022 thru 12/31/22           \$ 447.20           \$ 447.20           \$ 358.83           \$ 358.83           \$ 216.92           \$ 165.61	Ors         HOURLY CONRACT RATE from 9/01/2022 thru 12/31/22       HOUR from 1         \$ 447.20       \$         \$ 447.20       \$         \$ 358.83       \$         \$ 358.83       \$         \$ 320.18       \$         \$ 216.92       \$         \$ 165.61       \$				

### Confidential

### City of El Paso Deck Plaza Feasibility Study RFQ #2022-0740R

9/6/2022

HOURLY RATE S	CHEDULE							
SUBCONSULTANT: ILF Consulting	a Enginee	are						
SUBCONSULTANT: ILF Consulting Engineers DIRECT LABOR								
Classification	Classification from 9/							
Project Manager		\$	239.00	\$	248.56			
Senior Engineer		\$	158.00	\$	164.32			
Junior Engineer		\$	124.00	\$	128.96			
Administrative Staff		\$	82.00	\$	85.28			
	I			I				
Contract rates include labor, overhead, and profit. ** Includes 4% escalation								

### ATTACHMENT "C" CONSULTANT'S BASIC AND ADDITIONAL SERVICES

For the **"DECK PLAZA FEASIBILITY STUDY URBAN PLANNING AND ENGINEERING SERVICES"** hereinafter referred to as the Project, the Consultant will provide the Basic and Additional Services as noted herein.

### **BASIC SERVICES OF THE CONSULTANT**

### **GENERAL**

- **1.** The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
- 2. The Consultant shall comply with the City of El Paso Engineering Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under this Agreement.
- **3.** The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
- 4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with oversight and management of the Project within the allocated budget. The Owner's review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

### **REPORT/CONCEPT PHASE**

**1.** Upon receipt of the Owner's written authorization to proceed with the **Report Phase**, the Consultant shall:

**a.** Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.

**b.** Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.

**c.** (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's representative in

connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

**d.** Prepare a Preliminary Study and Report on the Project based on the mutually accepted program in sufficient detail to indicate clearly the problems involved and the alternative solutions available to the Owner, to include schematic layouts, sketches, flow diagrams and reports of studies, and a general opinion of probable construction costs for such of the above listed improvements to be included in the Project, and to set forth the Consultant's recommendations.

**e.** As per Attachment "D", furnish the Preliminary Study and Report and a general opinion of probable construction cost opinion to the Owner.

- 2. Upon receipt of the Preliminary Study and Report and before the Consultant is authorized to proceed with the Preliminary Design Phase, the Owner at its option may designate in writing various construction contracts into which the Project shall be divided, each of which may include one or more of the above listed improvements to be constructed. If the Owner designates various construction contracts into which the Project is to be divided, the Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, and final design drawings, specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- **3.** As identified in the Scope of Work in Attachment "A", the Consultant shall investigate the extent and character of any potential soil or water contamination on the properties identified in the Scope of Work, conduct asbestos investigations, environmental site assessments, and provide other environmental engineering services as required and authorized. Services not included in the original scope of work shall be considered Additional Services. The Consultant shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement, applicable Texas Commission on Environmental Quality and Texas Department of State Health Services Regulations, and any and all applicable state, federal and local laws. The Consultant shall develop an Investigation Plan for the identified properties. Upon approval of the Investigation Plan by the City, the City shall arrange to issue a Notice to Proceed for the Consultant to proceed in relation to an identified property.

### PHASE I - PRELIMINARY DESIGN PHASE

The Consultant shall do the following:

- 1. Consult with the Owner to determine the Owner's requirements for the Project.
- 2. Provide at the Consultant's sole expense right-of-way surveys, boundary surveys, topographic surveys, drainage surveys, and soil investigations as needed to design the Project and as required by the Scope of Work of the Agreement; obtain all available information from all utility companies and other affected agencies including, but not limited to, the Texas Department of Transportation and the U.S. Department of Interior,

Bureau of Reclamation, as needed to complete the proper design. This does not, however, include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

- **3.** Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.
- **4.** Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.
- 5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.
- 6. Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.
- **8.** Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.
- **9.** As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

### PHASE II - PRE-FINAL DESIGN PHASE

The Consultant shall do the following separately:

1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities.

The Consultant shall be fully responsible for coordination with all utility companies to resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.

- 2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the "Drawings," to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called "Specifications." These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.
- 3. Advise the Owner of any adjustment to the Consultant's previous opinion of probable construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant's cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor's method of pricing and that the Consultant's opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.
- **4.** Prepare proposal forms.
- 5. As per Attachment "D", furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.

### PHASE III - FINAL DESIGN PHASE

The Consultant shall do the following:

- 1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.
- 2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility company comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.
- **3.** Submit to the Texas Department of Licensing and Regulation, or a State Certified ADA consultant, a set of Final Design Drawings for ADA review and approval.
- **4.** As per Attachment "D", furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.
- 5. As per Attachment "D", furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.
- 6. Additional copies of the drawings and specifications beyond those identified in Attachment "D", required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

### **BIDDING PHASE**

Upon receipt of Owner's written request, the Consultant shall provide any of the following services during the Bidding Phase:

- 1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.
- **2.** Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.
- **3.** Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.
- 4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval

authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.

- 5. As identified in Attachment "A", assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.
- 6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

### **CONSTRUCTION PHASE**

At Owner's request, the Consultant shall provide any of the following services associated with the Construction Phase:

- **1.** Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.
- 2. Advise and consult with the Owner and act as the Owner's representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner's standard general conditions for construction projects, with such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.
- **3.** Unless otherwise stipulated in Attachment "A", Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.
- 4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant's efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

- 5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. Such review must be complete within ten City working days following receipt of submittal documents. The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.
- 6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.
- 7. Based on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.
- **8.** Conduct with the Owner and construction contractor no more **than two brief preliminary inspections**, at times requested by the construction contractor to determine if the Project is ready for final inspection.
- **9.** Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the

construction contractor, a final inspection of the Project and prepare and publish a "punch list" of minor deficiencies to be corrected prior to final payment to the construction contractor. The "**punch list**" shall be furnished to the construction contractor and the Owner within **two City working days** after the final inspection.

- **10.** Issue a "<u>Certificate of Substantial Completion</u>" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.
- **11.** Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.
- 12. Furnish the Owner one set of reproducible (**D format**) "record" drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format
- **13.** Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.
- 14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner's request, have recommendations implemented by the construction contractor.
- **15.** Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
- **16.** Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.
- **17.** Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.
- **18**. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.
- **19.** Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein.
- **20.** Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.

- **21.** Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.
- **22.** Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.
- 23. Provide additional or extended services during construction made necessary by: a) work damaged by fire or other cause during construction; b) prolongation of the construction contract time by more than twenty-five percent provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; c) Acceleration of the work schedule involving services beyond normal city working hours; or d) the construction contractor's default under the construction contract due to delinquency or insolvency.
- **24.** Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.
- **25.** Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.

### ADDITIONAL SERVICES OF THE CONSULTANT

### **GENERAL**

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

- **1.** Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
- 2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by **ten percent** or more.
- **3**. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.

- 4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
- 5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

### **RESIDENT PROJECT SERVICES**

- 1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.
- 2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.
- **3.** Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

### ATTACHMENT "D" PAYMENT SCHEDULE

For the project known as **"DECK PLAZA FEASIBILITY STUDY URBAN PLANNING AND ENGINEERING SERVICES"**, hereinafter referred to as the Project, the Owner will compensate the Consultant an amount not to exceed **\$1,321,785.00** for all Basic Services and reimbursables noted within the Agreement and its attachments.

### **PAYMENT SCHEDULE**

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

### **Payment to Consultant**

The compensation for each task described in Attachment "A". Payment shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and accompanying Summary and Progress Report and the Owner's written approval.

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant's proposal found in **Attachment "B"**. The time shown in **Attachment "B"** is an estimate. Should the services rendered during the construction phase exceed the estimated amount, written authorization will be required prior to rendering service. Written authorization shall be only by contract amendment in accordance with the contract provisions and applicable law.

The Owner shall make payments upon presentation of the Consultant's detailed Invoice and accompanying Summary and Progress Report and the Owner's written approval.

The invoice must clearly identify each employee name, title, hours worked, date of performance, task or project description, rate per hours and/or cost, and office/company location.

**Reimbursable Costs:** Efforts must be made to secure a *reasonable* and/or lowest rate available in the marketplace.

**Receipts:** Legible itemized receipts are required for the following: 1. Meals 2. Hotel (lodging) costs. 3. Airfare travel costs. 4. Parking costs. 5. Automobile or Equipment Rental costs. 6. Taxi, Limousine, Bus, Subway, or other travel costs. 7. Reproduction. 8. Shipping and Handling. 9. Local Postage/Deliveries (courier services). 10. Communication Costs. *Tips and alcohol are not reimbursable*.

No single invoice may include items for both August and September of any given year. The Owner's fiscal year begins on September 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year.

The Consultant's invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> of any given year, to coincide with the Owner's fiscal year.

**Communications Costs:** Long Distance telephone calls need to be identified and strictly related to work performed under this Agreement in order to be reimbursable by the Owner. A log is preferred showing the date, person's name called, and explanation. Cell phone monthly charges are reimbursable if usage is strictly related to work performed under this Agreement. Legible itemized cell phone records are required.

**Personal Automobile Mileage:** Expense report must clearly identify the departure/arrival time, To/From destinations and purpose of trip.

**Entertainment Costs:** Entertainment costs are not reimbursable, including: 1. Movie costs for "Pay for View" or Cable service. 2. Alcohol costs. 3. Monetary Tips (tipping) for any and all services related to all forms of travel (and/or entertainment).

### **DELIVERABLE SCHEDULE**

### **CONCEPT PHASE**

The services called for in the Report Phase of this Agreement shall be completed concurrently with the preliminary design phase and **five** (5) **copies** of the Preliminary Study and Report shall be submitted within **30 consecutive calendar days** following the written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed.

### PHASE I—PRELIMINARY DESIGN PHASE

The services called for in **Phase I** of this Agreement shall be completed and **ten** (10) **copies** of any required documents and opinion of probable construction costs shall be submitted within 120 **consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed. If Owner does not approve the preliminary design documents, the Consultant shall furnish **five** (5) **copies** of the resubmitted design documents.

### PHASE II—PRE-FINAL DESIGN PHASE

The services called for in **Phase II** of this Agreement shall be completed and **ten (10) copies** the required documents and services shall be submitted within **90 consecutive calendar** days following written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed.

### PHASE III—FINAL DESIGN PHASE

The services called for in **Phase III** of this Agreement shall be completed and **ten** (10) **copies** of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes shall be submitted within **60 consecutive calendar** days following written authorization from the Owner for the Consultant to proceed. After review, the Consultant shall submit to Owner **Three** (3) **copies** of the final revised design documents and specifications for final check. Upon the approval of the final design documents, the Consultant shall furnish **ten** (10)

**copies** of the final design documents and specifications for bidding to the Owner within **60 consecutive calendar days** following written authorization from the Owner for the Consultant to proceed. The time frame set forth in the written authorization from the Owner for the Consultant to proceed.

### PHASE IV—BIDDING PHASE

Provide services as authorized by Owner during the bid phase as described in Attachment "C" and submit **one** (1) **copy** of all addenda to the Owner for appropriate action within **four** (4) **months.** 

### PHASE V - CONSTRUCTION PHASE

Provide services as authorized by Owner during construction phase as described in Attachment "C" and submit one set of Mylar and one set of electronic media format copies of all record drawings to the Owner within **eighteen (18) months** from the date of substantial completion.

### ATTACHMENT "E" INSURANCE CERTIFICATE

A	CORD	CE	RTIF		BILITY INS	URANC	E 10/1/2022		живолого 6/2021
CB	HIS CERTIFICATE IS ISSUED ERTIFICATE DOES NOT AFF ELOW. THIS CERTIFICATE EPRESENTATIVE OR PRODU	OF INSU	ELY OR	NEGATIVELY AMEND, DOES NOT CONSTITUT	EXTEND OR ALT	ER THE CO	WERAGE AFFORDED	BY THE	POLICIES
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	Kansas City MO 64112-	1906			CARC No. Ext: C-MAIL		pac, no		
	(816) 960-9000				AUG/4230		RDING COVERAGE		NACE
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	If yes, describe under DESCRIPTION OF OPERATIONS below						EL DISEASE - POLICY LIMIT		
A	Professional Liab	2	N N	47-EPP-308810 NO RETROACTIVE DATE	10/1/2021	10/1/2022	\$3,000,000 PER CLAIM	AGG	
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в	Contractors Pollution Liab			CP08085428	101/2021	10/1/2023	\$3,000,000 PER LOSS/A	GG	
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The ACORD name and logo are registered marks of ACORD



### Deck Plaza Feasibility Study

**Urban Planning and Engineering Services** 

### Solicitation No: 2022-0740R November 22, 2022

<u>Strategic Plan Goal</u>: 3) Promote the Visual Image of El Paso

AN FURNITURE

3.1 Improve the visual image of the community (gateways, corridors, intersections, and parklands.



# **Project Details**

Location	Downtown El Paso; I-10 Corridor
District:	8
Total Budget:	\$1,321,785.00
Funding Source:	US DOT RAISE Grant, Paso Del Norte Community Foundation





# Project Background

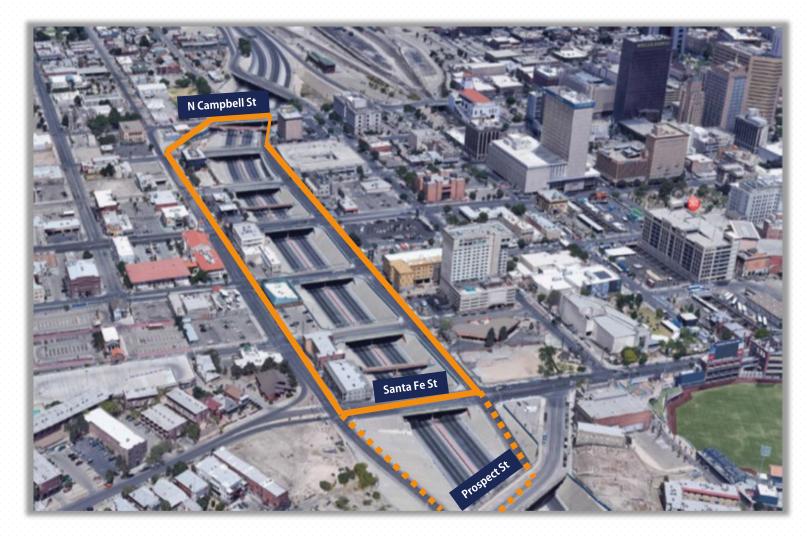
- The City received a Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant award from the U.S.
   Department of Transportation (DOT) to fund a planning study related to a proposed Deck Plaza spanning I-10 in the downtown corridor.
- The planning area for Plaza project falls within the limits of the Texas Department of Transportation's (TxDOT) "ReImagine I-10" project which proposes a complete renovation of I-10.





### **Project Location**





# **5** Scope of Work

- Determine the feasibility of designing, constructing, and financing a deck structure and related amenities that would span I-10.
- Deck would physically reconnect areas to the north and south while providing greater connectivity east and west of the study area and will provide multi-modal mobility and pedestrian accessibility.
- The study further requires the identification of programmatic elements to support financing, operations, and maintenance of the structure and related amenities.







- Solicitation advertised on May 27, 2022
  - Three (3) firms submitted statements of qualifications, two are local, third has a local office.
  - Recommendation:
  - Award contract to Stantec Consulting Services, Inc. in the amount of <u>\$1,321,785.00</u>
- Schedule November 2022 November 2023

# **Mission**

Deliver exceptional services to support a high quality of life and place for our community



Integrity, Respect, Excellence, Accountability, People

### Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government



Brindar servicios excepcionales para respaldar una vida y un lugar de alta calidad para nuestra comunidad

## ☆ Valores

Integridad, Respeto, Excelencia, Responsabilidad, Personas

### Visión

Desarrollar una economía regional vibrante, vecindarios seguros y hermosos y oportunidades recreativas, culturales y educativas excepcionales impulsadas por un gobierno de alto desempeño



Legislation Text

File #: 22-1498, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### All Districts

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218 Streets and Maintenance, Richard J. Bristol, (915) 212-7000

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* The linkage to the Strategic Plan is subsection 7.5 - Set One Standard for Infrastructure Across the City.

#### Award Summary:

Discussion and action on the award of Solicitation 2022-0724 Automotive Fuel - Diesel to Rio Valley Biofuels, LLC for an initial three (3) year term for an estimated amount of \$9,600,000.00. The award also includes a two (2) year option for an estimated amount of \$6,400,000.00. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$16,000,000.00. This contract will allow deliveries of diesel fuel for the Fleet Division.

#### Contract Variance:

The difference based in comparison to the previous contract is as follows: An increase of \$144,723.00 for the initial term, which represents a 1.53% increase due to increased fuel prices.

Department:	Streets and Maintenance
Award to:	Rio Valley Biofuels, LLC
	El Paso, TX
Item(s):	All
Initial Term:	3 Years
Option to Extend:	2 Years
Annual Estimated Award:	\$3,200,000.00
Initial Term Estimated Award:	\$9,600,000.00
Total Estimated Award:	\$16,000,000.00
Account No:	532 - 3600 - 531240 - 37020 - P3701
Funding Source:	Internal Service Fund
District(s):	All

### File #: 22-1498, Version: 1

This is a Best Value contract.

The Purchasing & Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Rio Valley Biofuels, LLC, the bidder offering the best value bid.

In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

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

AGENDA DATE:	November 22, 2022
PUBLIC HEARING DATE:	Not Applicable

#### CONTACT PERSON(S) NAME AND PHONE NUMBER:

DISTRICT(S) AFFECTED:	Richard J. Bristol, Streets and Maintenance Director, (915) 212-7000 Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212- 1218 All
STRATEGIC GOAL:	No. 7- Enhance and Sustain El Paso's Infrastructure Network
SUBGOAL:	7.5 – Set One Standard for Infrastructure Across the City

### SUBJECT:

Discussion and action on the award of solicitation 2022-0724 Automotive Fuel - Diesel to Rio Valley Biofuels, LLC for an initial three (3) year term for an estimated amount of \$9,600,000.00. The award also includes a two (2) year option for an estimated amount of \$6,400,000.00. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$16,000,000.00.

### **BACKGROUND / DISCUSSION:**

This contract will allow deliveries of diesel fuel for the Fleet Division.

### SELECTION SUMMARY:

Solicitation was advertised on July 26, 2022 and August 2, 2022. The solicitation was posted on City website on July 26, 2022. There were a total of ten (10) viewers online; four (4) bids were received; one (1) from a local supplier.

### CONTRACT VARIANCE:

The difference based in comparison to the previous contract is as follows: An increase of \$144,723.00 for the initial term, which represents a 1.53% increase due to increased fuel prices.

### PROTEST

No protest received for this requirement.

### **PRIOR COUNCIL ACTION:**

N/A

### AMOUNT AND SOURCE OF FUNDING:

Amount: \$9,600,000.00 Funding Source: Internal Service Fund Account: 532 – 3600 – 531240 – 37020 – P3701 **PRIMARY DEPARTMENT:** Streets and Maintenance **SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

### 

11-8-22

**DEPARTMENT HEAD:** 

Richard J. Bristol - Streets and Maintenance Director

#### 

Please place the following item on the REGULAR agenda for the Council Meeting of November 22, 2022.

### STRATEGIC GOAL: NO. 7 – Enhance and Sustain El Paso's Infrastructure Network

The linkage to the Strategic Plan is subsection 7.5 – Set One Standard for Infrastructure Across the City.

### Award Summary:

Discussion and action on the award of solicitation 2022-0724 Automotive Fuel - Diesel to Rio Valley Biofuels, LLC for an initial three (3) year term for an estimated amount of \$9,600,000.00. The award also includes a two (2) year option for an estimated amount of \$6,400,000.00. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$16,000,000.00. This contract will allow deliveries of diesel fuel for the Fleet Division.

### Contract Variance:

The difference based in comparison to the previous contract is as follows: An increase of \$144,723.00 for the initial term, which represents a 1.53% increase due to increased fuel prices.

Department:	Streets and Maintenance
Vendor:	Rio Valley Biofuels, LLC
	El Paso, TX
Item(s):	All
Initial Term:	3 Years
Option to Extend:	2 Years
Annual Estimated Award:	\$3,200,000.00
Initial Term Estimated Award:	\$9,600,000.00
Total Estimated Award:	\$16,000,000.00
Account No.:	532 - 3600 - 531240 - 37020 - P3701
Funding Source:	Internal Service Fund
District(s):	All

This is a Best Value contract.

The Purchasing & Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Rio Valley Biofuels, LLC, the bidder offering the best value bid.

In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.



### CITY OF EL PASO

#### **BID TABULATION FORM**



	E: Automotive Fuel (Diesel)										DADTA CHIT. Chur		umber: 2022-0724	
BID DAT	E: AUGUST 31, 2022	Manafiald						Ct	Dl- Ma-uli		r		nance Department	
		Mansfield Oil Company of Gainesville, Inc.			RIO VALLEY BIOFUELS, LLC			Sarat	oga Rack Market		Senergy Petroleum, LLC.			
	Company Name:		Gainesville, GA			El Paso, TX			Knoxville, TN			Phoenix, AZ		
			Bidder 1 of 4			Bidder 2 of 4			Bidder 3 of 4			Bidder 4 of 4		
GROUP Item	1: Ultra Low Sulfur Diesel #2 - Delivery Quantities	1			1						r			
No	Description		Supplier's Fee			Supplier's Fee			Supplier's Fee			Supplier's Fe	9	
		Markup (+) \$	\$ 0.03690	Per Gallon	Markup (+) \$	\$ 0.14	Per Gallon	Markup (+) \$	\$ 0.18	8 Per Gallon	Markup (+) \$	\$ 1.0	0 Per Gallon	
	Up to 1,500 Gallons (Small Load)		OR			OR			OR	•		OR		
1		Discount (-)	N/A	Per Gallon	Discount (-)	N/A	Per Gallon	Discount (-)	N/A	Per Gallon	Discount (-)	N/A	Per Gallon	
	List all State and Federal Mandated Fees:		Fee: \$1.70, FED Lust 0.002143, TX Motor F	t Tax: \$0.001, FED OIL Fuel: \$0.20		E .20 PER GAL; TX PPE R GAL; FED OIL SPILL			\$0.0010, Federal Oil - \$0.20, Petroleum F	Spill - \$0.002143 Products fee - \$3.45	ALL APPLICAB	ENV FEE (\$0.00214) LE TAXES IN THE EV ICATIONS ARE NOT		
		Markup (+) \$	\$ 0.0143	Per Gallon	Markup (+) \$	\$ 0.08	Per Gallon	Markup (+) \$	N/A Per Gallon		Markup (+) \$	\$ 0.2	5 Per Gallon	
	Up to 3,500 to 4,500 Gallons (Half Load)	OR			OR			OR			OR			
2		Discount (-)	N/A	Per Gallon	Discount (-)	N/A	Per Gallon	Discount (-)	\$ 0.0070	) Per Gallon	Discount (-)	N/A	Per Gallon	
	List all State and Federal Mandated Fees:	TX Product Delivery Fee: \$3.45, FED Lust Tax: \$0.001, FED OIL SPILL: \$0.002143, TX Motor Fuel: \$0.20							Federal LUST - \$0.0010, Federal Oil Spill - \$0.002143 Texas motor fuel - \$0.20, Petroleum Products fee - \$3.45			LUST(\$0.001), FED ENV FEE (\$0.002143) PER GALLON, PLUS ALL APPLICABLE TAXES IN THE EVENT APPROPRIATE CERTIFICATIONS ARE NOT PROVIDED.		
		Markup (+) \$	N/A	Per Gallon	Markup (+) \$	\$ 0.0232	Per Gallon	Markup (+) \$	N/A	Per Gallon	Markup (+) \$	\$ 0.1	0 Per Gallon	
	Up to 7,000 to 9,000 Gallons (Full Transport Load)	OR		OR		OR			OR					
3		Discount (-)	\$ (0.0176	) Per Gallon	Discount (-)	N/A	Per Gallon	Discount (-)	\$ 0.0070	) Per Gallon	Discount (-)	N/A	Per Gallon	
	List all State and Federal Mandated Fees:	gallons: \$5.45, TX P < 10,000 gallons: \$	very Fee for > 5,000 g roduct Delivery Fee f 6.95, FED Lust Tax: \$ 02143, TX Motor Fue	or > 8,000 gallons but 0.001, FED OIL SPILL:		E .20 PER GAL; TX PPE R GAL; FED OIL SPILL			\$0.0010, Federal Oil - \$0.20, Petroleum F		ALL APPLICAB	ENV FEE (\$0.00214 LE TAXES IN THE EV ICATIONS ARE NOT		
GROUP	2: Red-Dyed Diesel													
Item No	Description		Supplier's Fee			Supplier's Fee			Supplier's Fee		Supplier's Fee			
		Markup (+) \$	\$ 0.6127	Per Gallon	Markup (+) \$	\$ 0.30	Per Gallon	Markup (+) \$	\$ 0.42	Per Gallon	Markup (+) \$	\$ 0.6	0 Per Gallon	
	Up to 300 to 400 Gallons		OR			OR			OR			OR		
1		Discount (-)	N/A	Per Gallon	Discount (-)	N/A	Per Gallon	Discount (-)	N/A	Per Gallon	Discount (-)	N/A	Per Gallon	
	List all State and Federal Mandated Fees:		Fee: \$1.70, FED Lust 0.002143. TX Motor F	t Tax: \$0.001, FED OIL Fuel: \$0.20		) PER LOAD; FED LUST DIL SPILL FEE .00214 P			\$0.0010, Federal Oil exas Loading fee - \$1					
GROUP	3: Pump Off Charge													
	ff Charge for Above Ground Tanks (Per Delivery for ole Locations)	\$		75.00	\$		50.00	\$		75.00	\$		125.00	
NOTE:	The information contained in this bid tabulati	ion is for inform	nation only and	d does not cons	stitute actual av	ward/execution	of contract.							

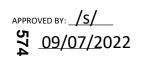


### CITY OF EL PASO

#### **BID TABULATION FORM**



BID TITLE: Automotive Fuel (Diesel) BID DATE: AUGUST 31, 2022			DE	Bid Number: 2022-0724 PARTMENT: Streets and Maintenance Department	
BID DATE. A00031 31, 2022	Mansfield Oil Company of Gainesville, Inc.	RIO VALLEY BIOFUELS, LLC	Saratoga Rack Marketing LLC	Senergy Petroleum, LLC.	
Company Name:	Gainesville, GA	Phoenix, AZ			
OPTION TO EXTEND THE TERM OF THE AGREEMENT					
THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND.					
BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:					
TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR TO THE EXPIRATION OF THE ORIGINAL TERM OF THE CONTRACT.		x			
NO OPTION OFFERED	X		X	X	
AMENDMENTS ACKNOWLEDGED:	Yes	Yes`	Yes	Yes	
BIDS SOLICITED: 79 LOCAL NOTE: The information contained in this bid tabulatic	BIDS SOLICITED: 39 on is for information only and does not consi	BIDS RECEIVED: 4 titute actual award/execution of contract.	LOCAL BIDS RECEIVED:	1 NO BID: 4	



					Committee Scoresheet		
CITY OF EL PASO BV SCORESHEET							
PROJECT: 2022-0724 Automotive Fuel - Diesel							
Evaluation of Submittal							
	MAX POINTS	Rio Valley Biofuels, LLC	Mansfield Oil Company of Gainesville, Inc.	Saratoga Rack Marketing LLC	Senergy Petroleum, LLC		
Factor A - Price	30	30.00	12.36	22.02	9.12		
Factor B - Experience - Comparable Contracts	30	11.17	13.33	5.67	5.33		
Factor C - References	10	3.33	9.50	0.00	2.67		
Factor D – Delivery Time and Local Distribution		30.00	15.00	20.00	30.00		
TOTAL SCORE	100	74.50	50.19	47.69	47.12		
RANK		1	2	3	4		

### 2022-0724 Bidders List

Participant Name	<u>City</u>	<u>State</u>
1 ABBA CONSTRUCTION, LLC	LAREDO	ТΧ
2 Alon Brands, Inc.	Dallas	ТΧ
3 Amtek USA, Austin	Houston	ТΧ
4 APFELBAUM INDUSTRIAL, INC.	EL PASO	ТΧ
5 Aztec Contractors Inc	EL PASO	ТΧ
6 Bella Luna Engineering and Building Maintenance	El Paso	ТΧ
7 Bio Dyne Chemical Co. (MJ Mader Enterprises Inc.)	El Paso	ТΧ
8 Border International Trucks (RJ Border International)	El Paso	ТΧ
9 Border Tire	El Paso	ТΧ
10 borderland services inc	el paso	ТΧ
11 Burton Enterprises LLC	Chesapeake	VA
12 C&R Distributing	el paso	ТΧ
13 Champion Wire & Cable	Westbury	NY
14 City of El Paso Strategic Partners	El Paso	ТΧ
15 Colliers (New Mexico Real Estate Advisors Inc)	Albuquerque	NM
16 Colonial Oil Industries, Inc.	Savannah	GA
17 Continental Kennel Club Inc.	Walker	LA
18 Controllix Corporation	Walton Hills	ОН
19 Coretech	El Paso	ТΧ
20 Cummins Sales and Service (Cummins Inc)	St. Louis	МО
21 D&H United Fueling Solutions	El Paso	ТΧ
22 Delgado's Repair and Maintenance	El Paso	ТΧ
23 Denoyer-Geppert Science	Skokie	IL
24 DUMMIES UNLIMITED INC.	POMONA	CA
25 Dunn-Edwards Corportation	Vernon	CA
26 EARLE KINLAW AND ASSO., INC. dba EKA	Grayson	GA
27 Efficio Construction Services LLC	El Paso	ТΧ
28 EL PASO CASTERS & MATERIAL HANDLING (CASTERS UNLIMITED)	EL PASO	ТΧ
29 EL PASO METALS & SUPPLY, INC	El Paso	ТΧ
30 el paso trench safety inc	El Paso	ТΧ
31 ERMC Aviation Services	<b>GRAND PRAIRIE</b>	ТΧ
32 FAAC Incorporated	Ann Arbor	MI
33 Ferrellgas, LP	Liberty	MO
34 Fireblast Global	Corona	CA
35 Giant Electrical Services	Canutillo	ТΧ
36 GLOBAL SUPPLY & SERVICE INC.	EL PASO	ТΧ
37 Graybar electric	El Paso	ТΧ
38 HITEQ COMPUTER SYSTEMS (PROLEAF CORPORATION)	PLANO	ТΧ
39 Holiday Inn Express & Suites- Sunland Park Area	El Paso	ТΧ
40 Internal Audit Office	El Paso	ТΧ
41 Kimball Midwest (Midwest Motor Supply Co. Inc.)	Columbus	OH
42 LABSOURCE INC	NORTHLAKE	IL
43 Li-Neon Media Group	El Paso	ТΧ
44 Lobo Distribution LLC	El Paso	ТΧ
45 Mansfield Oil Company of Gainesville	Gainesville	GA
46 Marrs Embroidery and Screen Printing Inc	El Paso	ТΧ
47 Mayfield Pool Supply, LP	El Paso	ТΧ
48 Metalcraft Inc.	Mason City	IA
49 MHC Kenworth	El Paso	ТΧ
50 MILESTONE HYDRAULICS (MILESTONE INDUSTRIAL, INC.)	El Paso	ТΧ
51 Mission Linen Supply	El Paso	ТΧ
52 Mohawk Mfg. & Supply Co.	Niles	IL

83 VersaTablesLos AngelesCA84 wesco distributionel pasoTX85 Wood Environment & Infrastrucure Solutions, Inc.El PasoTX86 WW GraingerEl PasoTX
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## 2022-0724 – Automotive Fuel Diesel

Richard Bristol, Director, Streets and Maintenance November 22, 2022

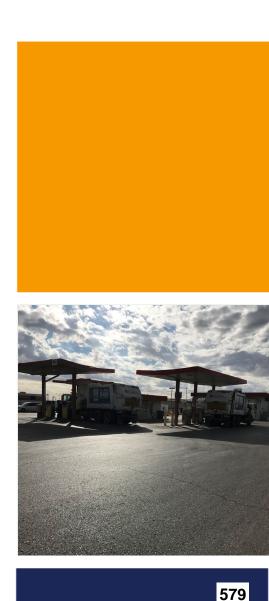




## Strategic Plan Goal:

7: Enhance and Sustain El Paso's Infrastructure Network

7.5: Set one Standard for Infrastructure Across the City







## **Purpose of Procurement**

- The purpose of this procurement is to facilitate the purchase of diesel automotive fuel so that the City may ensure the continual use of vehicles so that each department may fulfill their respective mission.
- Vehicles Include 600 Heavy Duty Vehicles
- Fuel is delivered to City dispensing fuel stations (Lafayette, Raynor, Northeast, Doniphan and Landfill)

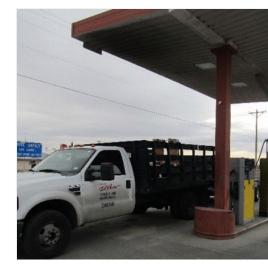






### 2022-0724 Automotive Fuel - Diesel

Contractor	Rio Valley Biofuels
Initial Term & Award	\$9,600,000 – 3 years
Option	2 years - \$6,400,000
Funding Source	Internal Service Fund – Fuel Inventory Purchases
Account No.	532-531240-3600-37020-P3701





## **Mission**

Deliver exceptional services to support a high quality of life and place for our community



Integrity, Respect, Excellence, Accountability, People

## Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government





Legislation Text

#### File #: 22-1517, Version: 3

#### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Capital Improvement Department, Yvette Hernandez, (915) 212-1860

#### AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action on the award of Task Order 11 for Solicitation 2021-0811, Greater El Paso Landfill Truck Scale Replacement to Veliz Construction for a total estimated award of \$830,919.18.

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

AGENDA DATE:	November 22, 2022
PUBLIC HEARING DATE:	Not Applicable
CONTACT PERSON(S) NA	ME AND PHONE NUMBER:
	Yvette Hernandez, City Engineer, (915) 212-1860 Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing,
	(915) 212-1218
DISTRICT(S) AFFECTED: STRATEGIC GOAL:	N/A No. 7 – Enhance and Sustain El Paso's Infrastructure Network
SUBGOAL:	7.4 – Continue the strategic investment in city facilities and technologies

#### SUBJECT:

Discussion and action on the award of Task Order 11 for solicitation 2021-0811, Greater El Paso Landfill Truck Scale Replacement to Veliz Construction for a total estimated award of \$830,919.18

#### **BACKGROUND / DISCUSSION:**

On July 20, 2021 Council approved the award of Solicitation 2021-0811 Job Order Contracting and Facilities Construction to Alpha Building Corporation and Veliz Company, LLC dba Veliz Construction. Work under these contracts is performed via task orders with task orders exceeding **FIVE HUNDERED THOUSAND DOLLARS** (\$500,000) requiring Council approval. The task order for the Greater El Paso Landfill Truck Scale Replacement exceeds \$500,000 and therefore requires Council approval.

#### **SELECTION SUMMARY:**

N/A

#### **CONTRACT VARIANCE:**

N/A

#### **PROTEST**

N/A

#### **PRIOR COUNCIL ACTION:**

July 20, 2021 approved the award of Contract 2021-0811 Job Order Contracting and Facilities Construction to Alpha Building Corporation and Veliz Company, LLC dba Veliz Construction. Each contract has an initial term of two (2) years for an estimated amount of \$4,000,000.00. Each contract also includes three (3), one (1) year options for an estimated amount of \$6,000,000.00. The length of each contract including the initial term plus options is five (5) years for an estimated contract amount of \$10,000,000.00.

March 1, 2022 approved exercising the three one year options contemplated in the initial award of the contract 2021-0811.

#### AMOUNT AND SOURCE OF FUNDING:

Amount: \$830,919.18 Funding Source: PESD00210 – Construction (CWIP) Account:

#### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Capital Improvement SECONDARY DEPARTMENT: Environmental Services

#### 

Jerry DeMuro/for

#### **DEPARTMENT HEAD:**

Assistant Director Capital Improvement

Yvette Hernandez City Engineer

### **CITY OF EL PASO TASK ORDER**

CONSTRUCTION CHAN	NGE ORDER NO.:	11V-1	DATE:		October 20, 2022			SCOPE CH	ANGE
PROJECT:	Job Orde	r Contracting & Facilities	s Construction	1	SOLICITATION #	2021-08	311V	X CONSTRU	CTION CHANGE
	Greater El I	aso Landfill Truck Sca	ale Replacem	ient		Task #1	1V-1		
	Original 0	Contract Amount: \$		830,919.18		Contract Time to	Substantia	Completion	195
Ne	et Change by previous	Change Orders: \$		-	Total days	added due to Cha	ange Orders	s and CQN's	
Net Change by p	previous Construction	Quantity Notices:				Total days adde	d for this Cl	nange Order	
Amo	unt of this Constructio			-		Contract Time to S			
	New Amended (	Contract Amount:		\$830,919.18	-	Current Substantia	al Completi	on Due Date	7/13/1900
Change Order Percent	tage:			0.00%					
CONTRACTOR NAME	E:	Veliz Company, LLC		_	Fu	nding Source	PESD0	0210 - Constr	uction (CWIP)
<i>Please provide a detail</i> Task order #11V-1 will in does not change the over	ncorporate the constru	ction documents into the	e Job Order C	ontracting & F	acilities Constructio		21-0811 da	ted August 3,	2021. This task order
Builders Risk insurance	is not required for this	task order.							
A separate Notice to Pro	oceed will be issued up	on approval of necessa	ry Bonds and	Insurance as	required by the cont	ract.			
Attachments: GEPL Sca	le Replacement Seale	d Drawings dated 4/11/2	2022, GEPL S	cale Replace	ment Sealed Tech S	pecs dated 4/11/2	2022.		
Agreed Upon Proposal f	or Task #11: \$830,91	9.18							
Time: 195 consecutive C	Calendar Days for sub	tantial completion, 30 a	dditional days	for Final Con	npletion for a total of	Two Hundred and	d Twenty Fi	ve (225) caler	ıdar days
Unless specifically noted				inoney, inclus			a with the en		
CALENDAR DAYS ADD	ED TO COMPLETION	I TIME:		0	*TOTAL CI	HANGE ORDER A	MOUNT:	\$	-
					*Change	Order will not cha	ange overa	II Contract A	mount
CONTRACTO	R: Veliz Compan	y, LLC							
			of		amu 11 C				ant the terms
I,			, 01	Veliz Comp	any, LLO		i	agree and acc	ept the terms
	and conditions of this	change order.							
Signature:							Date:		
CITY OF EL F	PASO (OWNER)								
l,	Yvette Hernandez	P.E. of the City of El in this form.	Paso hereby a	authorize and	direct the Contracto	r to proceed with a	additional w	ork as describ	ed
Signaturo							Data.		
	Yvette Hernandez, P.I								

		CITY OF	EL PASO	TASK ORDER-	Pg. 2	
CONSTRUCTION CHANGE		11V-1	DATE:	October 20, 2022		0 SCOPE CHANGE
PROJECT:	Job Order	Contracting & Facilitie	es Construction	SOLICITATION #	2021-0811V	X CONSTRUCTION CHANGE
Purchase Order N	lo22000	00000				
	AS A RESULT OF	THIS CHANGE ORDE	ER, PLEASE MAKE TH	IE FOLLOWING ADJUSTME	NT TO THE PURCHA	SE ORDER:
LINE	ADI	DED AMOUNT				
0		\$0.00			L NET CHANGE TO RCHASE ORDER	
					\$0.00	
					(should match cost be	elow)
					Additional f	unding/direction:

Reason/Justification for Change Order:

Task order to demolish and replace two steel deck truck scales, including demolitions related to scales, such as concrete foundations, approach ramps, and departure ramps; reconstruction of surface drainage, concrete approach ramps, departure ramps, and scale foundations, as well as associated installation; providing and installing scale equipment and various other electrical upgrades as detailed in Construction Drawings.

Time: The time for the task order #11V-1 shall be a total of 225 consecutive calendar days. 195 consecutive calendar days to substantial completion and 30 consecutive calendar days to final completion. Time was justified by comparison to projects of similar scope.

Project Manager recommends approval: Cristian Benitez Gilbert Guerrero

Engineering Division Manager recommends approval: Gilbert Guerrero



## Greater EL Paso Landfill Truck Scales Replacement

Solicitation No: 2021-0811 November 8, 2022

**Strategic Plan Goal:** 

8) Nurture and promote a Healthy, Sustainable Community
 8.6) Provide long-term, cost effective, sustainable regional solid waste solutions

MARK AVE

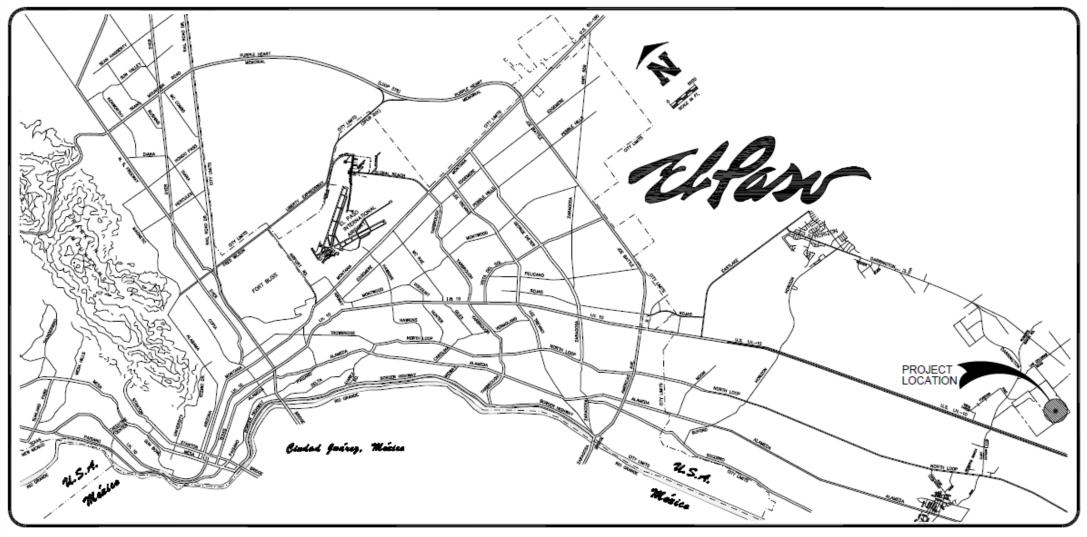
## **Project Details**



Location:	Greater El Paso Landfill – 2600 Darrington Rd.
District(s):	N/A
Construction Budget:	\$830,919.18
Funding Source:	PESD00210 – Construction (CWIP)
	New scales will provide accurate weight readings for approx. 500 daily customers of the Greater El Paso Landfill
Background:	Being performed under Job Order Contract 2021-0811; task orders exceeding Five Hundred Thousand Dollars (\$500,000) require Council approval.

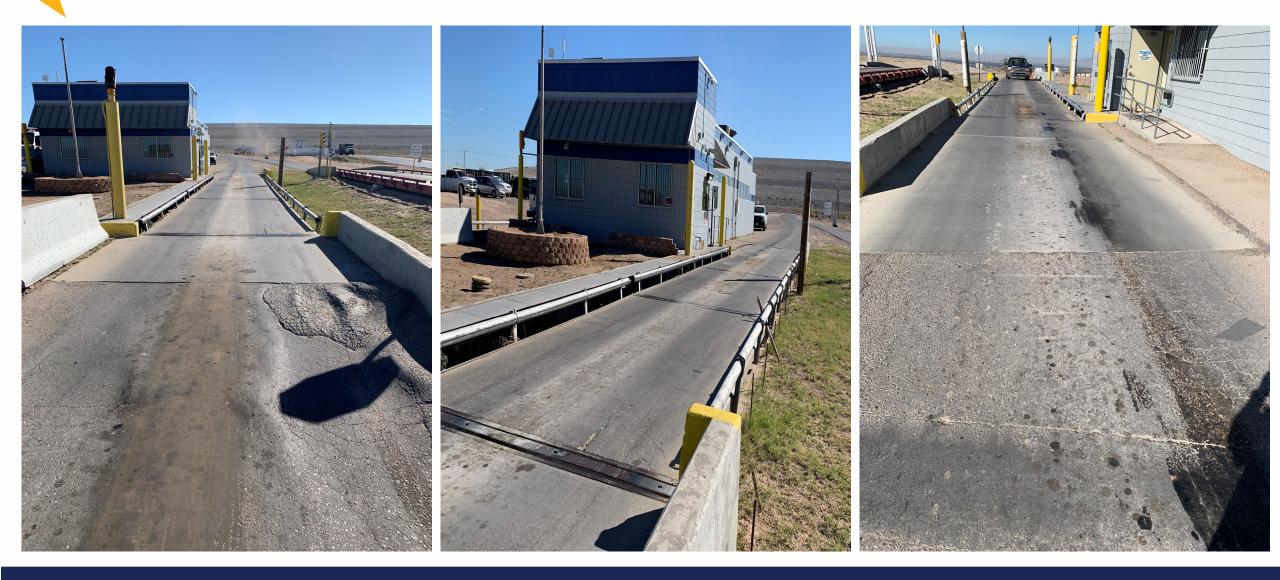


## **Project Location**



### 2600 Darringon, Clint TX 79928

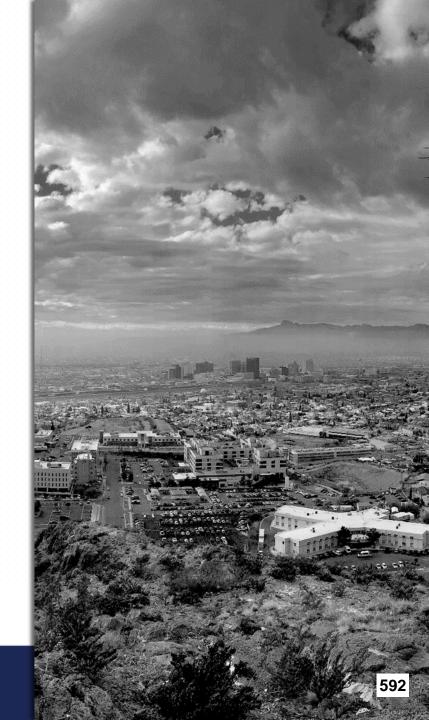
## **Existing Conditions**



# **5** Scope of Work

Truck Scales Replacement will include:

- Demolition and replacement of two steel deck truck scales, including concrete foundations, ingress/egress ramps, and departure ramps and scale removal.
- Reconstruction of surface drainage, ingress and egress ramps, and scale foundations, and scale installation.
- Providing and installing scale equipment and various other electrical upgrades as detailed in Construction Drawings.





## **Procurement Summary**

- Task #11 under the Job Order Facilities Construction Contract, 2021-0811
  - Recommendation
    - To award the construction contract to Veliz Company, LLC in the amount of \$830,919.18.
  - Contract time: 225 calendar days.

## **Mission**

Deliver exceptional services to support a high quality of life and place for our community



Integrity, Respect, Excellence, Accountability, People

## Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government



Brindar servicios excepcionales para respaldar una vida y un lugar de alta calidad para nuestra comunidad

## ☆ Valores

Integridad, Respeto, Excelencia, Responsabilidad, Personas

## Visión

Desarrollar una economía regional vibrante, vecindarios seguros y hermosos y oportunidades recreativas, culturales y educativas excepcionales impulsadas por un gobierno de alto desempeño



Legislation Text

File #: 22-1373, Version: 1

#### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

#### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### District 8

Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Luis Zamora, (915) 212-1552

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

An Ordinance changing the zoning of Lots 1 through 16, Block 36, East El Paso, 3200 and 3230 Durazno Avenue, City of El Paso, El Paso County, Texas from M-1 (Light Manufacturing) to G-MU (General Mixed Use) and approving a master zoning plan. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: 3200 and 3230 Durazno Ave. Applicant: Spaghetti Bowl Properties, LLC, PZRZ22-00025

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

AGENDA DATE:October 25, 2022PUBLIC HEARING DATE:November 22, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553

Luis Zamora, (915) 212-1552

**DISTRICT(S) AFFECTED**: District 8

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.2 Set one standard for infrastructure across the city

#### SUBJECT:

An ordinance changing the zoning of Lots 1 through 16, Block 36, East El Paso, 3200 and 3230 Durazno Avenue, City of El Paso, El Paso County, Texas from M-1 (Light Manufacturing) to G-MU (General Mixed Use) and approving a master zoning plan. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 3200 and 3230 Durazno Ave. Applicant: Spaghetti Bowl Properties, LLC, PZRZ22-00025

#### **BACKGROUND / DISCUSSION:**

The applicant is requesting to rezone the subject property along with approval of a master zoning plan to allow a mixed-use development, which consist of an existing brewery and warehouse with the addition of proposed uses of on-premise consumption of alcohol and offices. City Plan Commission unanimously recommended 5-0 to approve the proposed rezoning on September 8, 2022. As of October 18, 2022, the Planning Division has not received any communication in support or opposition to the rezoning request. See attached staff report for additional information.

#### PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? <u>X</u> YES <u>NO</u>

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division **SECONDARY DEPARTMENT:** N/A

#### 

**DEPARTMENT HEAD:** 

Philip Tiwe

#### ORDINANCE NO.\_\_\_\_\_

#### AN ORDINANCE CHANGING THE ZONING OF LOTS 1 THROUGH 16, BLOCK 36, EAST EL PASO, 3200 AND 3230 DURAZNO AVENUE, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM M-1 (LIGHT MANUFACTURING) TO G-MU (GENERAL MIXED USE) AND APPROVING A MASTER ZONING PLAN. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

Pursuant to Section 20.04.360 of the El Paso City Code, that the zoning of *Lots 1 through 16, Block 36, East El Paso, 3200 and 3230 Durazno Avenue, City of El Paso, El Paso County, Texas,* be changed from **M-1 (Light Manufacturing) to G-MU (General Mixed Use)** and approving a Master Zoning Plan, as defined in Section 20.06.020, such land uses allowed as being reflected in the Master Zoning Plan attached as Exhibit "A" and the Master Zoning Report attached as Exhibit "B" incorporated herein for all purposes, and that the zoning map of the City of El Paso be revised accordingly.

The Penalties for violating the standards imposed through this rezoning ordinance are found in Chapter 20.24 of the El Paso City Code.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022

THE CITY OF EL PASO:

**ATTEST:** 

Oscar Leeser Mayor

Laura D. Prine, City Clerk

**APPROVED AS TO FORM:** 

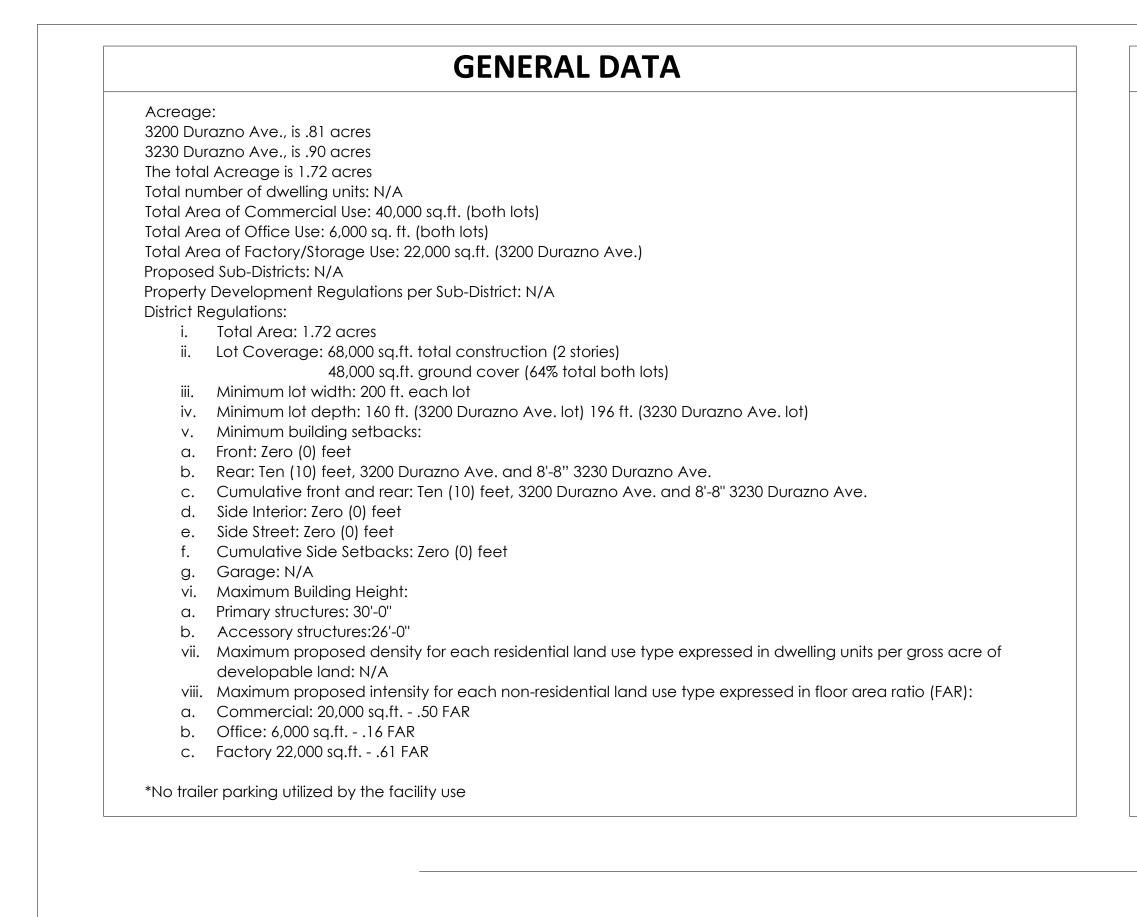
Russell T. Abeln

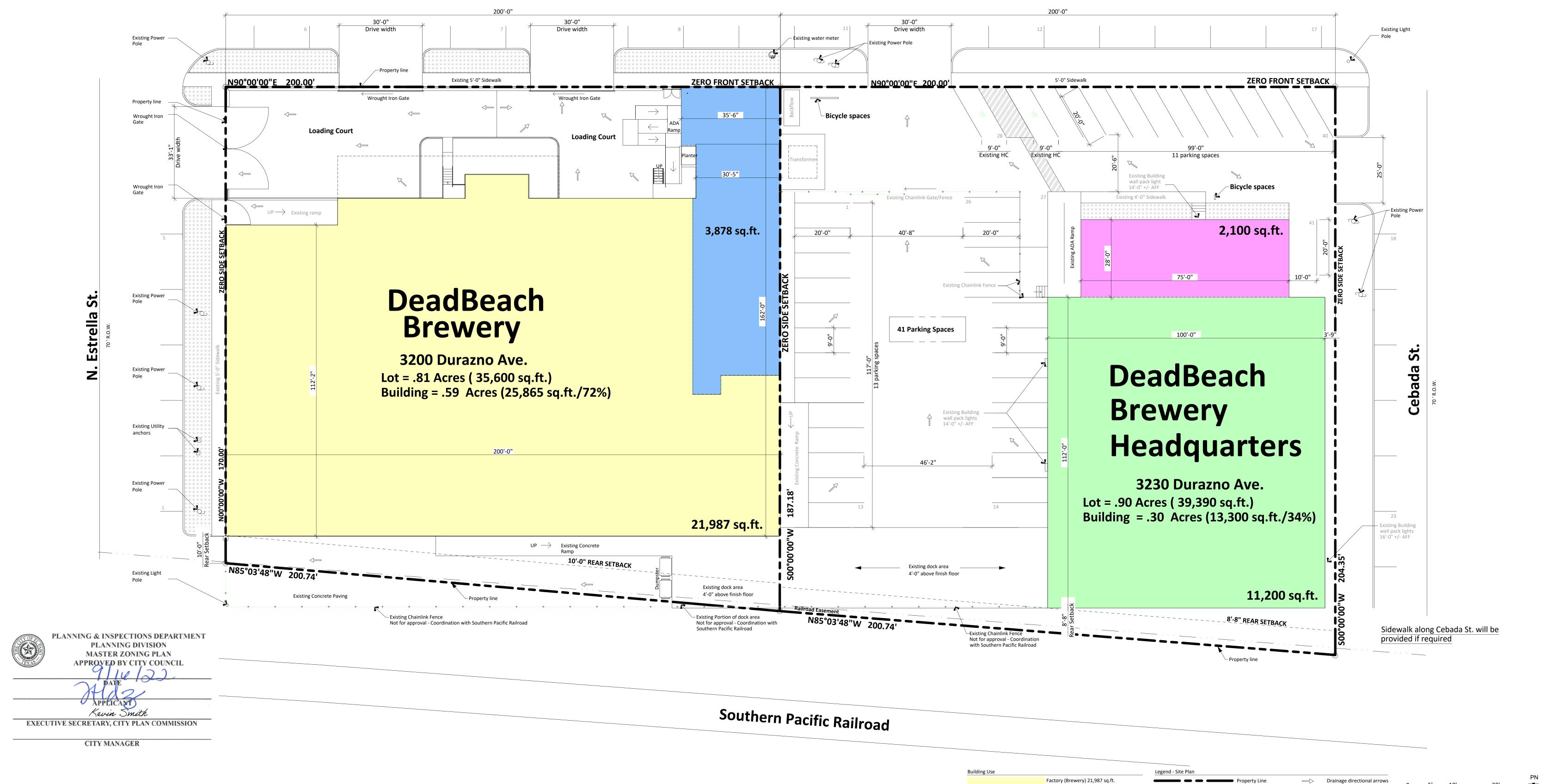
Assistant City Attorney

#### **APPROVED AS TO CONTENT:**

Philip (tive

Philip F. Etiwe, Director Planning & Inspections Department





**PROJECT GENERAL INFORMATION** 

### **Deadbeach Brewery**

3200 Durazno Ave. El Paso, TX 79905 Zoning District : GMU

## Legal Description

36 EAST EL PASO 1 TO 8 (35,600 sg.ft.) PID: E01499903600100

## Size and Use of structures

25,865 sq.ft. (total building sq.ft.) 21,987 sq.ft. (Brewery, warehouse, storage, manufacturing, label, package) 3,878 sq.ft. (Business, tasting/pub/bar, consumer sale for on and off-premise beer and wine consumption)

### **Parking Calculation**

Occupancy: F2/B Brewery (5.06) 21,987 SF/864 SF GFA = 25 Parking spaces required Office, Business (4.09) 3,878 SF/576 SF GFA = 7 Parking spaces required Total Parking Required: 32 parking spaces required 3 bicycle spaces required and provided Total Parking Provided: 41 parking spaces required + 23 on-street parking = 64 total

### Landscape

Existing Landscape area provided: 2,486 sq.ft. (not required for this project under 18.46)

### Durazno Ave.

70 ' R.O.W.

### **Deadbeach Brewery Company Headquarters** 3230 Durazno Ave. El Paso, TX 79905

Zoning District : GMU Legal Description

36 EAST EL PASO 9 TO 16 (39,390 sq.ft.) PID: E01499903601700

### Size and Use of structures

13,300 sq.ft. (total building sq.ft. 11,200 sq.ft. (warehouse, storage) 2,100 sq.ft. (Office)

## **Parking Calculation**

Office Warehouse (2.13) Office 2,100 SF/ 400 SF GFA = 5 Parking spaces required Warehouse 11,200 SF / 5,000 SF GFA = 2 Parking spaces required 3 bicycle spaces required and provided

Total Parking Required: 7 parking spaces required Parking for 3200 Durazno is provided at 3230 Durazno

Shared Parking Agreement PSHP21-00001

## Landscape

Existing Landscape area provided: 420 sq.ft. (not required for this project under 18.46)

## LOCATION MAP SHEET



Commercial (Offices) 3,878 sq.ft. Commercial (Office Storage) 11,200 sq.ft. Commercial (Offices) 2,100 sq.ft.

· \_\_\_\_ · — — — — — — — — — Setback Line

— Railroad Easement Bicycle rack Landscape Areas

Site Plan

1/16" = 1'-0" **1** 

Print Date / Time:	08/29/2022	2
LWA Commission Number		Sheet Number
218-025		MZP-100.A

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Master Zoning Plan

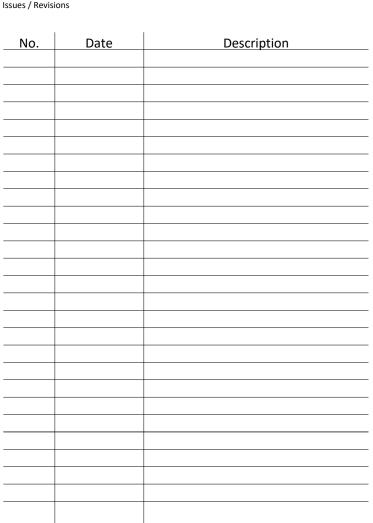
3200 and 3230 Durazno Ave.

Tenant

El Paso Texas, 79905

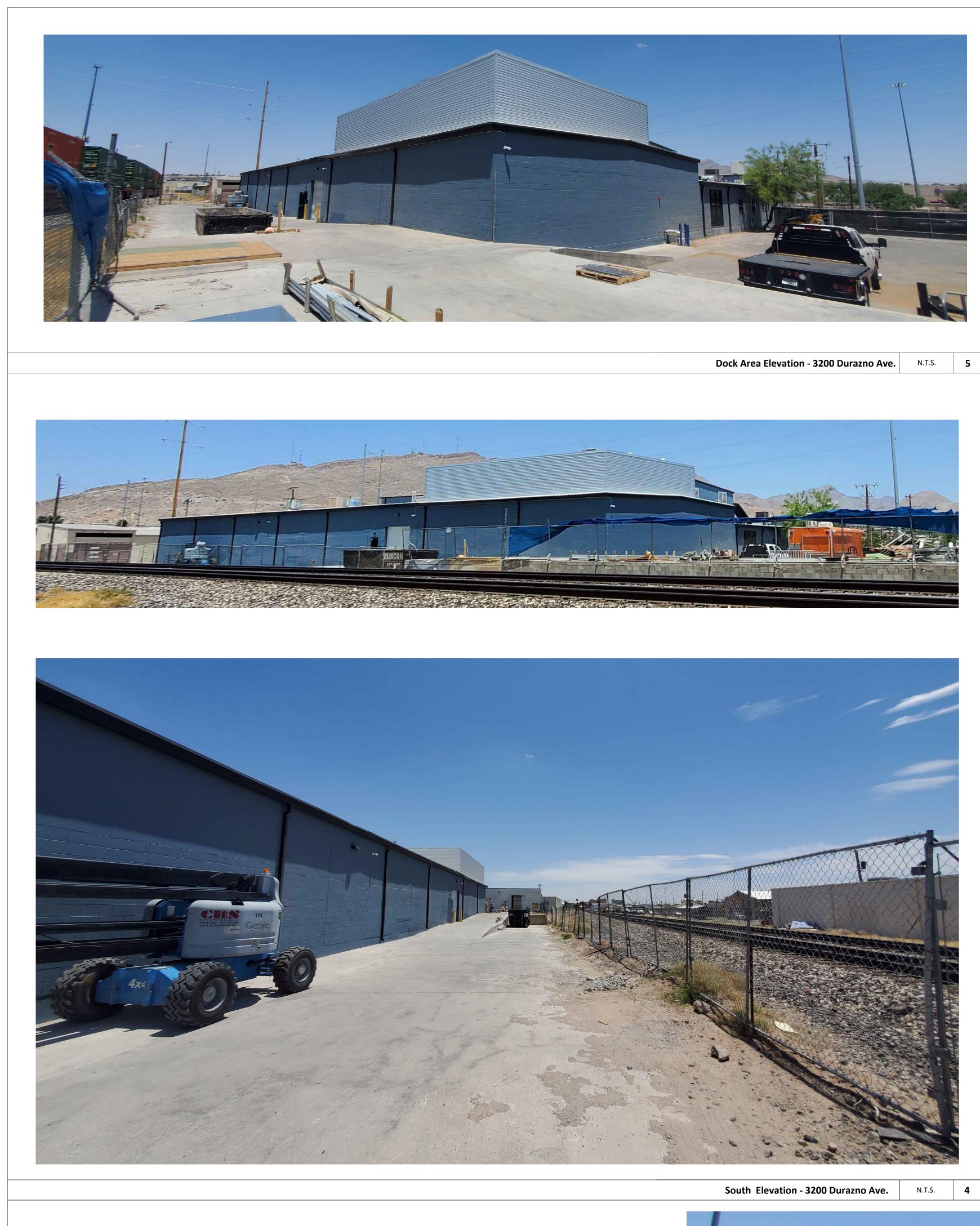
-----\_\_\_\_\_ \_\_\_\_\_ DeadBeach Brewery

Improvement



ies / Revi	sions		 
No	1	Date	Description













Fence and Gate Height: 8'-0" and 13'-0" +/- highest point

East Elevation - 3200 Durazno Ave.N.T.S.3

West Elevation (N. Estrella St.) - 3200 Durazno Ave. N.T.S. **2** 

Building Height: 30'-0" +/- highest point.

Building Height: 30'-0" +/- highest point. North Elevation - 3200 Durazno Ave. N.T.S. 1

int Date / Time:	08/18/2022	2
A Commission Number		Sheet Number
218-025		MZP-100.B

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Master Zoning Plan

3200 and 3230 Durazno Ave.

El Paso Texas, 79905

Date Description

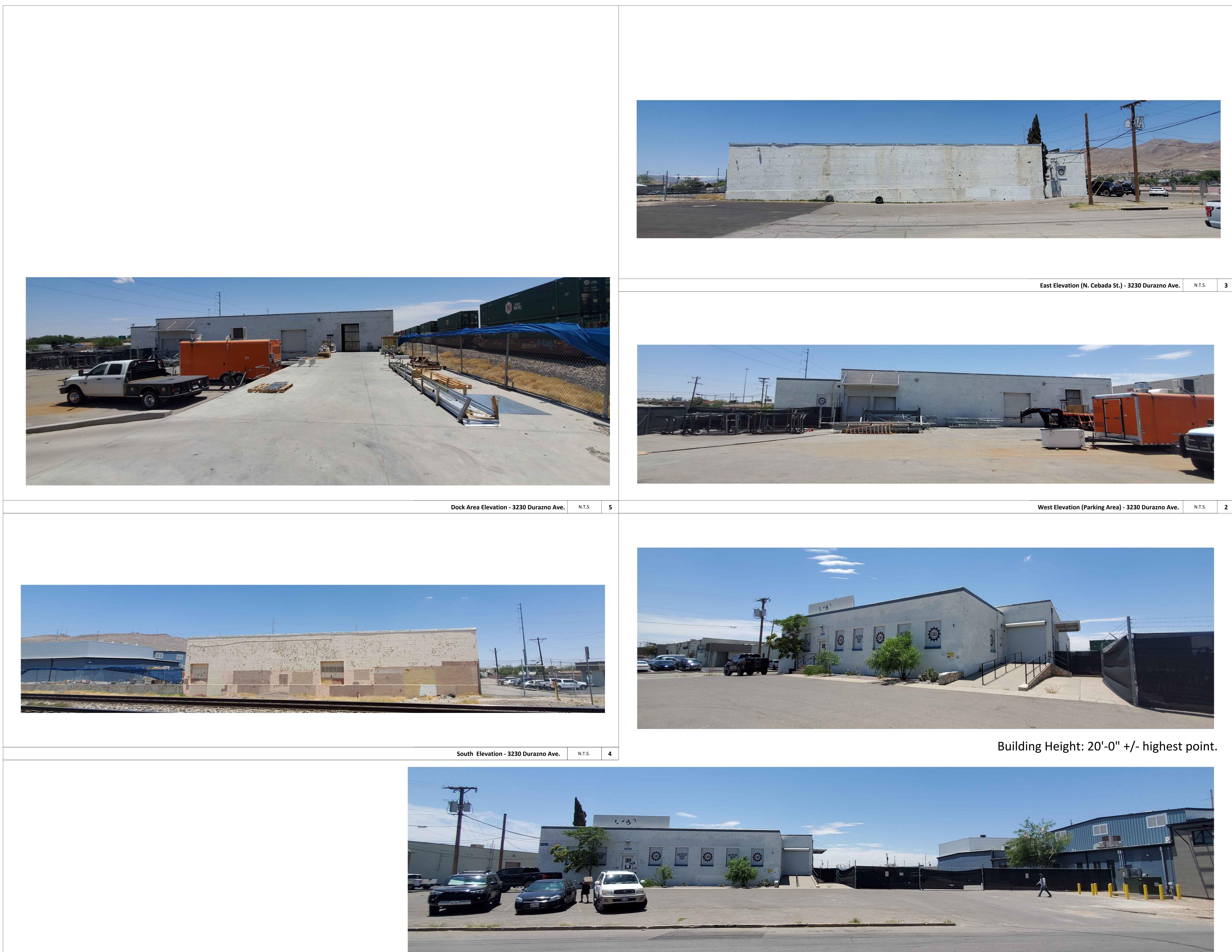
DeadBeach

Brewery

Tenant













Fence and Gate Height: 8'-0" and 13'-0" +/- highest point

Building Height: 20'-0" +/- highest point. North Elevation - 3230 Durazno Ave. N.T.S.

,,	
LWA Commission Number	Sheet Number
218-025	MZP-100.C

Print Date / Time: 08/18/2022 

1

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Master Zoning Plan

3200 and 3230 Durazno Ave.

El Paso Texas, 79905

Name

sues / Revisions No. Date Description \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_

DeadBeach

Improvement

Brewery

Tenant



EXHIBIT "B"



Wells Fargo Plaza 221 North Kansas Street, Suite 820 El Paso, Texas 79901 (915) 613-4576 phone (915) 532-8839 fax www.loyawilke.com

	PLANNING & INSPECTIONS DEPARTMENT
KY O	FLANNING & INSPECTIONS DEPARTMENT
STA	PLANNING DIVISION
大調剤	MASTER ZONING PLAN
TEX	APPROVED BY CITY COUNCIL
	9/10/22
	DATE 2
	APPLICANT)
	Kevin Smith
E	XECUTIVE SECRETARY, CITY PLAN COMMISSION
	,

CITY MANAGER

#### Master Zoning Plan for a General Mixed-Use Zoning DeadBeach Brewery

#### A) Purpose and Intent:

This new Master Zoning Plan intends to improve the existing neighborhood, mark our City of El Paso as a local beer distributor that has expanded beyond our state, bring work opportunities, increase the value of adjacent properties, and provide an eyecatching building from the interstate highway.

#### B) Objective:

Both buildings will create a block that will allow all visitors to tour the most recent stage of technological development brewery facility, a tasting center, a culinary restaurant and bar, and retail areas. It allows the surrounding residential areas to have a mixedused space within walking distance.

#### C) Characteristics:

3200 Durazno Avenue is the location of a newly renovated 25,865 sq. ft. building. The Brewery occupies 21,987 sq. ft. of the building and the pending 3,878 sq. ft., the administrative offices and a tasting area.

3230 Durazno Avenue is the location of the existing DeadBeach Brewery Headquarters building of 13,300 sq. ft.

The existing building at 3230 Durazno Ave. will be demolished in the next two to three years to bring a new prominent two-story building that will provide a mixed-use space including a full-service restaurant, bar, tavern, pub, retail marketplace, beer and wine sale, business spaces.

#### D) Access:

Both buildings have access from Durazno Ave. and the side streets, Estrella Street and Cebada Street.

#### E) Setbacks:

The buildings request a zero setback along Durazno Ave., zero side setbacks, 10'-0" rear setback for lot 3200, and 8'- 8" rear setback for lot 3230.

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#### F) Landscaping:

3200 Durazno Ave. building has improved the site and provided 2,486 sq. ft. of landscape areas.

3230 Durazno Ave. building currently has about 420 sq. ft. of landscape. We will incorporate interior and exterior green areas as part of the new building design.

#### G) Parking:

Lots currently have a shared parking agreement PSHP21-00001 that provides sufficient parking space for open business hours.

Durazno Ave. provides off-street parking spaces along the front of the buildings, and Estrella Street and Cebada Street provide off-street parking since both streets have been closed by the Rail Road. No trailer parking utilized by facility use.

#### Parking Calculation

Occupancy: F2/B Brewery (5.06) 21,987 SF/864 SF GFA = 25 Parking spaces required Office, Business (4.09) 3,878 SF/576 SF GFA = 7 Parking spaces required Total Parking Required: 32 parking spaces required 3 bicycle spaces required and provided Total Parking Provided: 41 parking spaces required + 23 on-street parking = 64 total

#### Parking Calculation

Office Warehouse (2.13) Office 2,100 SF/ 400 SF GFA = 5 Parking spaces required Warehouse 11,200 SF / 5,000 SF GFA = 2 Parking spaces required 3 bicycle spaces required and provided

Total Parking Required: 7 parking spaces required

Parking for 3200 Durazno is provided at 3230 Durazno Shared Parking Agreement PSHP21-00001

#### H) Phasing:

3200 Durazno has completed the renovation of the building. 3230 Durazno will be built in one phase in its entirety within the next two to three years.

#### I) Relationship with Plan for El Paso:

The building improvements will boost the surroundings, increase economic development in the area, and promote the neighborhood's renovation/development of properties.

#### **General Data:**

Acreage: 3200 Durazno Ave., is .81 acres 3230 Durazno Ave., is .90 acres The total Acreage is 1.72 acres Total number of dwelling units: N/A Total Area of Commercial Use: 40,000 sq.ft. (both lots) Total Area of Office Use: 6,000 sq. ft. (both lots) Total Area of Factory/Storage Use: 22,000 sq.ft. (3200 Durazno Ave.)



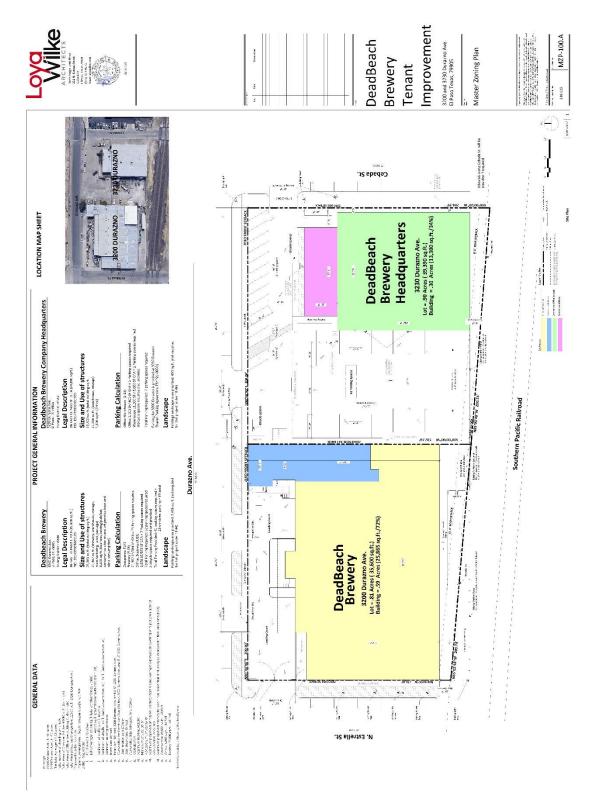
Proposed Sub-Districts: N/A Property Development Regulations per Sub-District: N/A Zoning District: GMU District Regulations:

- i. Total Area: 1.72 acres
- ii. Lot Coverage: 68,000 sq.ft. total construction
  - 48,000 sq.ft. ground cover
- iii. Minimum lot width: 200 ft. each lot
- iv. Minimum lot depth: 160 ft. (3200 Durazno Ave. lot) 196 ft. (3230 Durazno Ave. lot)
- v. Minimum building setbacks:
  - a. Front: Zero (0) feet
  - b. Rear: Ten (10) feet, 3200 Durazno Ave. and 8'-8" 3230 Durazno Ave.
  - c. Cumulative front and rear: Ten (10) feet, 3200 Durazno Ave. and 8'-8" 3230 Durazno Ave.
  - d. Side Interior: Zero (0) feet
  - e. Side Street: Zero (0) feet
  - f. Cumulative Side Setbacks: Zero (0) feet
  - g. Garage: N/A
- vi. Maximum Building Height:
  - a. Primary structures: 30'-0"
  - b. Accessory structures:26'-0"
- vii. Maximum proposed density for each residential land use type expressed in dwelling units per gross acre of developable land: N/A
- viii. Maximum proposed intensity for each non-residential land use type expressed in floor area ratio (FAR):
  - a. Commercial: 20,000 sq.ft. .50 FAR
  - b. Office: 6,000 sq.ft. .16 FAR
  - c. Factory 22,000 sq.ft. .61 FAR

Property Development Regulations Required per Subdistrict by Land Use Type: N/A Development Plan: See MZP-100 for full-size plan.

DeadBeach Brewery 25 August 2022 Page 4







Uses	Minimum Area	Front Setback	Side Setback	Rear Setback	Maximum Building
	Aleu	JEIDUCK	JEIDUCK	SEIDUCK	Height
Office, Warehouse	576 sq. ft.	0 Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Warehouse	7,200 sq.ft.	O Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Storage of supplies, equipment, goods	7,200 sq. ft.	0 Ft.	O Ft.	10'-0'' and 8'- 8''	30 Ft.
Office, Business	576 sq. ft.	O Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Office, Professional	576 sq. ft.	O Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Office, Administrative/Manager's	576 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Beverage product manufacturing	960 sq. ft.	O Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Brewery	864 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Night club, bar, cocktail Iounge, tavern	144 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Other retail establishments (high-volume)	360 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Other retail establishments (low-volume)	360 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Other wholesale establishment (high-volume)	2,700 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Other wholesale establishment (low-volume)	2,700 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Restaurant (drive-in or walk- up)	144 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Restaurant (sit down)	144 sq. ft.	0 Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Specialty shop	360 sq. ft.	0 Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.

Gilda Maraboto, RAS, CBI-ICC Senior Associate LoyaWilke Architects

/Attachment(s): MZP-100, MZP-100.B and MZP-100.C

### 3200 and 3230 Durazno Avenue

City Plan Commission — September 8, 2022

	CASE NUMBER:	PZRZ22-00025
	CASE MANAGER:	Luis Zamora, (915) 212-1552, ZamoraLF@elpasotexas.gov
-	PROPERTY OWNER:	Spaghetti Bowl Properties, LLC
	REPRESENTATIVE:	Veronica Hernandez
	LOCATION:	3200 and 3230 Durazno Ave. (District 8)
	PROPERTY AREA:	1.72 acres
	REQUEST:	Rezone from M-1 (Light Manufacturing) to G-MU (General Mixed
		Use) and approval of a Master Zoning Plan
	RELATED APPLICATIONS:	None
	PUBLIC INPUT:	None received as of September 1, 2022

**SUMMARY OF REQUEST:** The applicant requests to rezone from M-1 (Light Manufacturing) to G-MU (General Mixed Use) and approval of a Master Zoning Plan to allow a mixed-use development.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL** of the request. The proposed development is character with other uses in its proximity and is in keeping with the policies of the G-2, Traditional Neighborhood Land Use Designation of *Plan El Paso*, the City's adopted Comprehensive Plan.

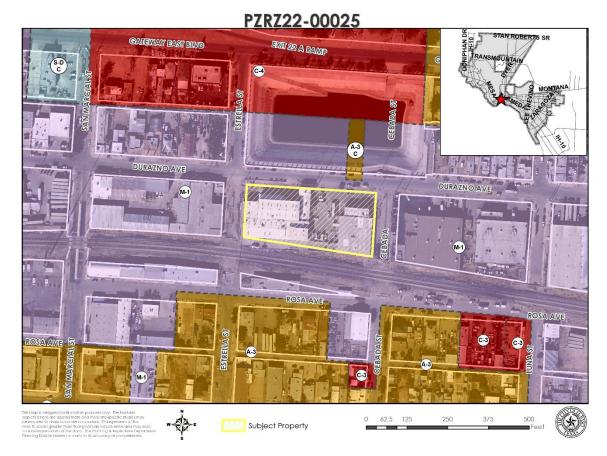


Figure A. Subject Property & Immediate Surroundings

DESCRIPTION OF REQUEST: The applicant requests to rezone the subject property from M-1 (Light Manufacturing) to G-MU (General Mixed Use) to allow a mixed-use development. Along with the rezoning request, approval of a Master Zoning Plan is required due to the proposed mixed-use district. The master zoning plan shows the subject property consisting of two (2) lots with existing structures to remain. The property at 3200 Durazno Avenue is proposed to house 21,987 square feet for use of brewery, warehouse, storage, manufacturing, labeling, and packaging, as well as house 3,878 square feet for use of business, tasting/pub/bar, and consumer sale for onpremise and off-premise beer and wine consumption for a total area of 25,865 square feet. Total required parking per the uses is forty-one (41) parking spaces and three (3) bicycle spaces. Parking for this property is being provided on the adjacent property through an approved shared parking agreement (PSHP21-00001). The property at 3230 Durazno Avenue is proposed to house 2,100 square feet of office space and 11,200 square feet for warehouse and storage for a total area of 13,300 square feet. Total required parking per the uses is seven (7) parking spaces and three (3) bicycle spaces. Due to the parking shared agreement, this property is to provide a minimum of forty-eight (48) parking spaces, which include two (2) accessible spaces, and six (6) bicycle spaces. The applicant is providing forty-one (41) spaces within the property plus twenty-three (23) spaces on the street for a total of sixty-four (64) parking spaces available along with six (6) bicycle spaces to meet the requirements. Main access to the properties are from Durazno Avenue, Estrella Street, and Cebada Street.

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER:** Neighboring properties to the north across Durazno Avenue consist of a public stormwater pond site zoned M-1 (Light Manufacturing), C-4 (Commercial), and A-3/c (Apartment/conditions). Properties to the west across Estrella Street consist of a general warehouse, to the east across Cebada Street consist of an electrical supply store, and to the south across the railroad tracks consist of an automotive repair shop, all zoned M-1 (Light Manufacturing). Currently, formal sidewalks are present only on the property at 3200 Durazno Avenue with the property at 3230 Durazno Avenue having the parkway covered by asphalt. The nearest school is Zavala Elementary (0.73 miles) and the nearest park is Pera-Luna Park (0.63 miles).

COMPLIANCE WITH <i>PLAN EL PASO</i> /REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with <i>Plan El Paso</i> , consider the following factors:					
Criteria	Does the Request Comply?				
<ul> <li>Future Land Use Map: Proposed zone change is compatible with the Future Land Use designation for the property:</li> <li><u>G-2, Traditional Neighborhood:</u> This sector includes the remainder of central El Paso as it existed through World War II. Blocks are small and usually have rear alleys; buildings directly faced streets; schools, parks, and small shops are integrated with residential areas. This sector is well-suited for use of the SmartCode as a replacement for current zoning when planned in conjunction with specific neighborhood plans or identified in this Comprehensive Plan.</li> </ul>	Yes. The proposed mixed-use development will integrate commercial and office uses in an area mostly comprised of light industrial uses.				

COMPLIANCE WITH PLAN EL PASO/REZONING POLICY – When evaluating whether a						
proposed rezoning is in accordance with <i>Plan El Paso</i> , consider the following factors:						
Compatibility with Surroundings: The proposed zoning district is compatible with those surrounding the site: <u>G-MU (General Mixed Use)</u> : The purpose of this district is to accommodate, encourage and promote innovatively designed developments involving the combining and mixing of uses allowed in various zoning districts with appropriate regulations, which together form an attractive and harmonious unit of the city. The regulations of this district are intended to allow for large-scale developments that are able to function as individual neighborhoods or an integrated collection (two or more) of individual neighborhoods supported by civic, commercial and recreational uses; as small-scale developments requiring flexibility because of unique design characteristics; or as transitional areas between dissimilar land uses. It is intended that the district regulations permit flexibility and encourage more creative, efficient and aesthetically desirable design and placement of land uses.	Yes. The proposed zoning district is compatible with the adjacent M-1 (Light Manufacturing) zone district surrounding the property, which consist of a general warehouse, automotive repair shop, and electrical supply store.					
<b>Preferred Development Locations:</b> Located along an arterial (or greater street classification) or the intersection of two collectors (or greater street classification). The site for proposed rezoning is not located mid-block, resulting in it being the only property on the block with an alternative zoning district, density, use and/or land use.	Yes. The subject property covers an entire block and abuts Durazno Avenue, which is designated as a Collector as per El Paso Major Thoroughfare Plan (MTP), which is appropriate for the proposed intensity. In addition, it is in close proximity to Gateway East Boulevard, designated as a Major Arterial and subsequently to Interstate Highway 10, designated as a Freeway per the El Paso MTP.					
	E PROPERTY AND SURROUNDING PROPERTY, AFTER					
EVALUATING THE FOLLOWING FACTORS: Historic District or Special Designations & Study Area Plans: Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.	The subject property is not located within any historic districts, other special designations, or areas with adopted study area plans.					
<b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.	No adverse effects are anticipated.					
Natural Environment: Anticipated effects on the natural environment.	There are no anticipated effects to the natural environment.					
Stability: Whether the area is stable or in transition.	The area is stable with no rezonings in the vicinity in the last 10 years.					
<b>Socioeconomic &amp; Physical Conditions</b> : Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.	None.					

**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** The subject property will provide access from Durazno Avenue, which is designated as a Collector per El Paso MTP and is appropriate for the proposed intensity. In addition, it is in close proximity to Gateway East Boulevard, designated as a Major Arterial and subsequently to Interstate Highway 10, designated as a Freeway per the El Paso MTP. While sidewalks are partially present thought the area, any required sidewalks may be required to be installed prior to issuance of building permits.

**SUMMARY OF DEPARTMENTAL REVIEW COMMENTS:** There are no adverse comments from reviewing departments.

**PUBLIC COMMENT:** The subject property lies within the Sunrise Civic Group and the El Paso Central Business Association, which were notified of the request by the applicant. As required, public notice was sent to all property owners within 300 feet of the subject property on August 25, 2022. The Planning division has not received any communication in support nor opposition to the request as of September 1, 2022,

#### **RELATED APPLICATIONS:** None.

#### **CITY PLAN COMMISSION OPTIONS:**

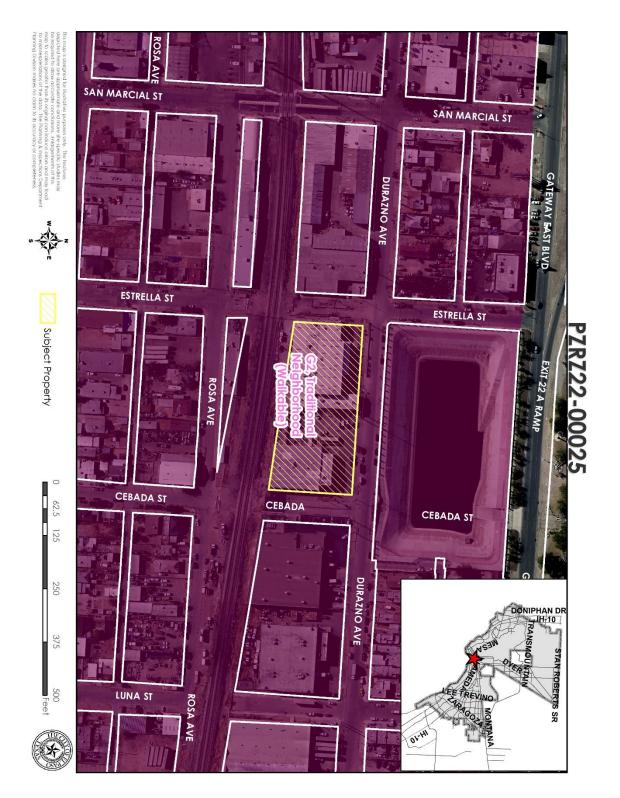
The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

- 1. **Recommend Approval** of the rezoning request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan. (Staff Recommendation)
- 2. **Recommend Approval of the rezoning request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.
- 3. **Recommend Denial** of the rezoning request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

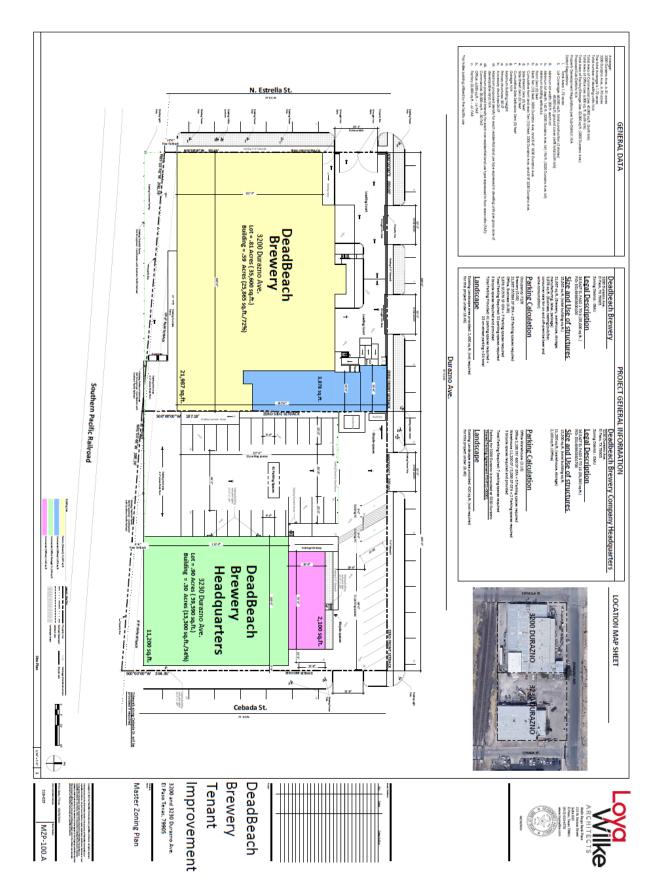
#### ATTACHMENTS:

- 1. Future Land Use Map
- 2. Master Zoning Plan
- 3. Master Zoning Plan Report
- 4. Department Comments
- 5. Neighborhood Notification Boundary Map

### ATTACHMENT 1



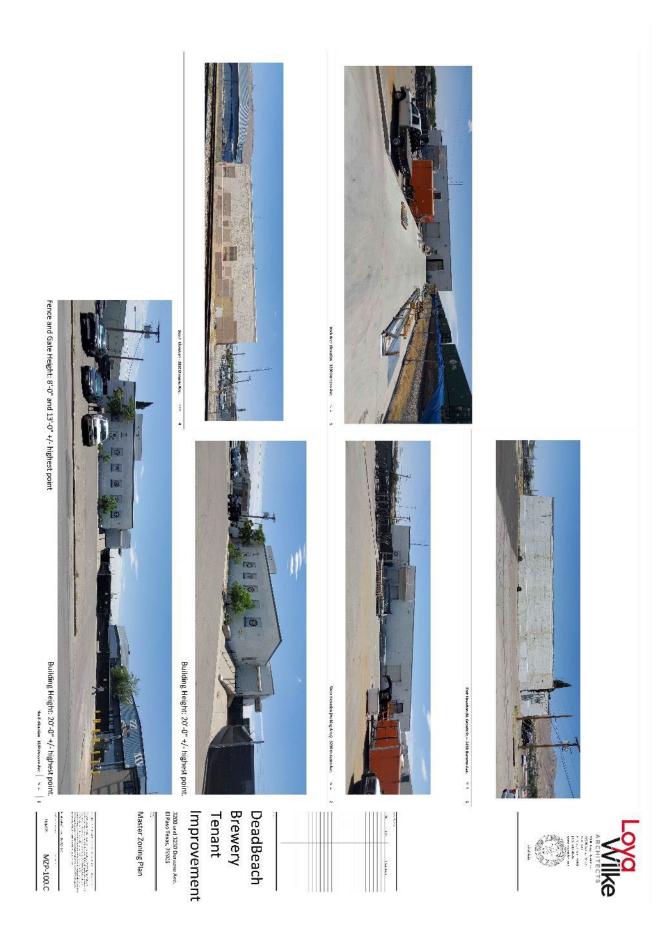
5



### ATTACHMENT 2



7



8

### ATTACHMENT 3



Wells Fargo Plaza 221 North Kansas Street, Suite 820 El Paso, Texas 79901 (915) 613-4576 phone (915) 532-8839 fax www.loyawilke.com

### Master Zoning Plan for a General Mixed-Use Zoning DeadBeach Brewery

### A) Purpose and Intent:

This new Master Zoning Plan intends to improve the existing neighborhood, mark our City of El Paso as a local beer distributor that has expanded beyond our state, bring work opportunities, increase the value of adjacent properties, and provide an eyecatching building from the interstate highway.

#### B) Objective:

Both buildings will create a block that will allow all visitors to tour the most recent stage of technological development brewery facility, a tasting center, a culinary restaurant and bar, and retail areas. It allows the surrounding residential areas to have a mixed-used space within walking distance.

### C) Characteristics:

3200 Durazno Avenue is the location of a newly renovated 25,865 sq. ft. building. The Brewery occupies 21,987 sq. ft. of the building and the pending 3,878 sq. ft., the administrative offices and a tasting area.

3230 Durazno Avenue is the location of the existing DeadBeach Brewery Headquarters building of 13,300 sq. ft.

The existing building at 3230 Durazno Ave. will be demolished in the next two to three years to bring a new prominent two-story building that will provide a mixed-use space including a full-service restaurant, bar, tavern, pub, retail marketplace, beer and wine sale, business spaces.

### D) Access:

Both buildings have access from Durazno Ave. and the side streets, Estrella Street and Cebada Street.

### E) Setbacks:

The buildings request a zero setback along Durazno Ave., zero side setbacks, 10'-0'' rear setback for lot 3200, and 8'-8'' rear setback for lot 3230.

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#### F) Landscaping:

3200 Durazno Ave. building has improved the site and provided 2,486 sq. ft. of landscape areas.

3230 Durazno Ave. building currently has about 420 sq. ft. of landscape. We will incorporate interior and exterior green areas as part of the new building design.

#### G) Parking:

Lots currently have a shared parking agreement PSHP21-00001 that provides sufficient parking space for open business hours.

Durazno Ave. provides off-street parking spaces along the front of the buildings, and Estrella Street and Cebada Street provide off-street parking since both streets have been closed by the Rail Road. No trailer parking utilized by facility use.

#### Parking Calculation

Occupancy: F2/8 Brewery (5.06) 21,987 57,864 55 GFA = 25 Parking spaces required Office, Business (4.09) 3,878 5F/576 5F GFA = 7 Parking spaces required Total Parking Required: 32 parking spaces required 3 bicycle spaces required and provided Total Parking Provided: 41 parking spaces required + 23 on-street parking = 64 total

#### Parking Calculation

Office Warehouse (2.13) Office 2,100 SF (5A = 5 Parking spaces required Warehouse 11,200 SF (5A = 2 Parking spaces required 3 bicycle spaces required and provided

Total Parking Required: 7 parking spaces required Parking for 3200 Durazno is provided at 3230 Durazno Shared Parking Agreement PSHP21-00001

### H) Phasing:

3200 Durazno has completed the renovation of the building. 3230 Durazno will be built in one phase in its entirety within the next two to three years.

#### I) Relationship with Plan for El Paso:

The building improvements will boost the surroundings, increase economic development in the area, and promote the neighborhood's renovation/development of properties.

#### General Data:

Acreage: 3200 Durazno Ave., is .81 acres 3230 Durazno Ave., is .90 acres The total Acreage is 1.72 acres Total number of dwelling units: N/A Total Area of Commercial Use: 40,000 sq.ft. (both lots) Total Area of Office Use: 6,000 sq. ft. (both lots) Total Area of Factory/Storage Use: 22,000 sq.ft. (3200 Durazno Ave.)

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Proposed Sub-Districts: N/A

Property Development Regulations per Sub-District: N/A Zoning District: GMU

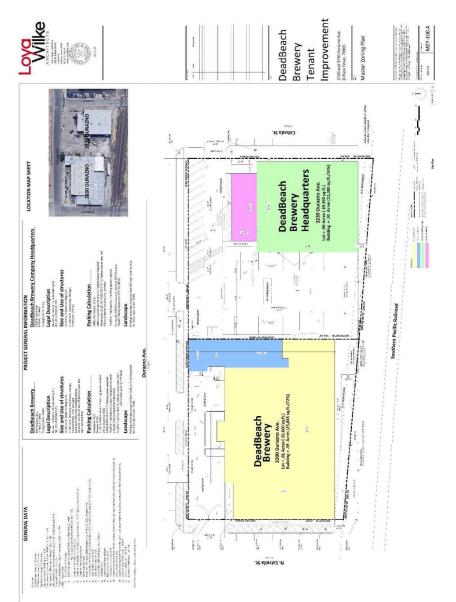
District Regulations:

- i. Total Area: 1.72 acres
- ii. Lot Coverage: 68,000 sq.ft. total construction 48,000 sq.ft. ground cover
- iii. Minimum lot width: 200 ft. each lot
- iv. Minimum lot depth: 160 ft. (3200 Durazno Ave. lot) 196 ft. (3230 Durazno Ave. lot)
- v. Minimum building setbacks:
  - a. Front: Zero (0) feet
  - b. Rear: Ten (10) feet, 3200 Durazno Ave. and 8'-8" 3230 Durazno Ave.
  - Cumulative front and rear: Ten (10) feet, 3200 Durazno Ave. and 8'-8" 3230 Durazno Ave.
  - d. Side Interior: Zero (0) feet
  - e. Side Street: Zero (0) feet
  - f. Cumulative Side Setbacks: Zero (0) feet
  - g. Garage: N/A
- vi. Maximum Building Height:
  - a. Primary structures: 30'-0"
  - b. Accessory structures:26'-0"
- vii. Maximum proposed density for each residential land use type expressed in dwelling units per gross acre of developable land: N/A
- viii. Maximum proposed intensity for each non-residential land use type expressed in floor area ratio (FAR):
  - a. Commercial: 20,000 sq.ft. .50 FAR
  - b. Office: 6,000 sq.ft. .16 FAR
  - c. Factory 22,000 sq.ft. .61 FAR

Property Development Regulations Required per Subdistrict by Land Use Type: N/A Development Plan: See MZP-100 for full-size plan.

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Dead Beach Brewery Mix-Use Table					
Uses	Minimum Area	Front Setback	Side Setback	Rear Setback	Maximum Building Height
Office, Warehouse	576 sq. ft.	0 Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Warehouse	7,200 sq.ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Storage of supplies, equipment, goods	7,200 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Office, Business	576 sq. ft.	O Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Office, Professional	576 sq. ft.	0 Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Office, Administrative/Manager's	576 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Beverage product manufacturing	960 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Brewery	864 sq. ft.	O Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Night club, bar, cocktail Iounge, tavern	144 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Other retail establishments (high-volume)	360 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Other retail establishments (low-volume)	360 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Other wholesale establishment (high-volume)	2,700 sq. ft.	0 Ft.	0 Ft.	10'-0'' and 8'- 8''	30 Ft.
Other wholesale establishment (low-volume)	2,700 sq. ft.	0 Ft.	0 Ft.	10'-0" and 8'- 8"	30 Ft.
Restaurant (drive-in or walk- up)	144 sq. ft.	0 Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Restaurant (sit down)	144 sq. ft.	0 Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.
Specialty shop	360 sq. ft.	0 Ft.	O Ft.	10'-0" and 8'- 8"	30 Ft.

Gilda Maraboto, RAS, CBI-ICC Senior Associate LoyaWilke Architects

/Attachment(s): MZP-100, MZP-100.B and MZP-100.C

Your vision is our passion for design.

13

### **ATTACHMENT 4**

### **Planning and Inspections Department - Planning Division**

Recommend approval of the rezoning request and Master Zoning Plan.

### Planning and Inspections Department – Plan Review & Landscaping Division

No objections to proposed rezoning. At the time of submittal for building permit, the project will need to comply with all applicable provisions of the ICC, TAS and Municipal Code.

### Planning and Inspections Department – Land Development

Recommend approval.

- 1. The code encourages the use of nonstructural storm water management such as the preservation of greenspace, rainwater harvesting within parkways, landscaped areas, and other conservation efforts, to the maximum extent practicable.
- 2. Verify project is providing continuous sidewalk along 3230 Durazno frontage ROW in ADA compliance at street corners.

Note: Sidewalk compliance to be verified at time of building permitting.

Fire Department

No comments received.

<u>Police Department</u> No comments received.

**Environmental Services** 

No comments received.

### **Streets and Maintenance Department**

No objections.

<u>Sun Metro</u> No comments received.

### El Paso Water

### Stormwater:

If this property is redeveloped, EPWater-SW recommends using principles of low impact development (such as recessed landscaping, rainwater harvesting, and porous pavement) to reduce the amount of developed stormwater runoff.

Texas Department of Transportation

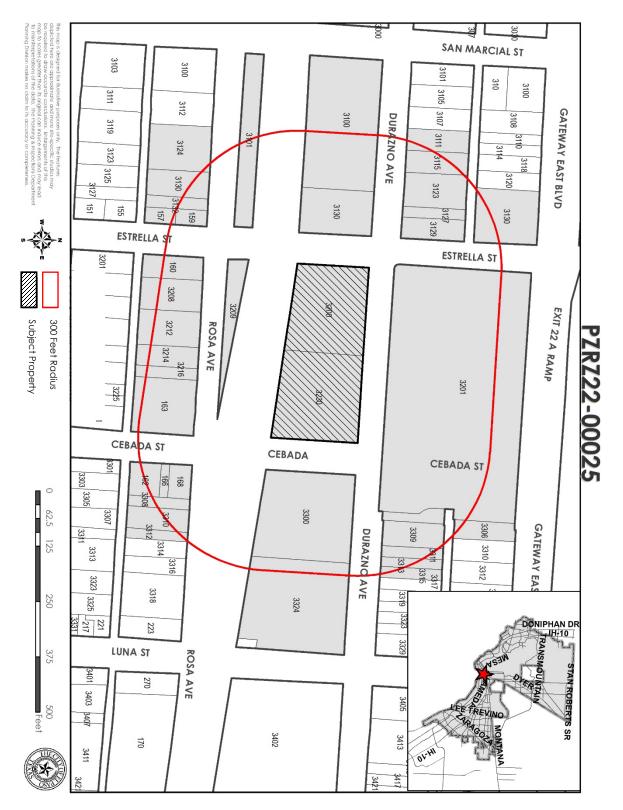
No comments received.

<u>El Paso 9-1-1 District</u> No comments received.

El Paso County Water Improvement District #1

No comments received.

### **ATTACHMENT 5**



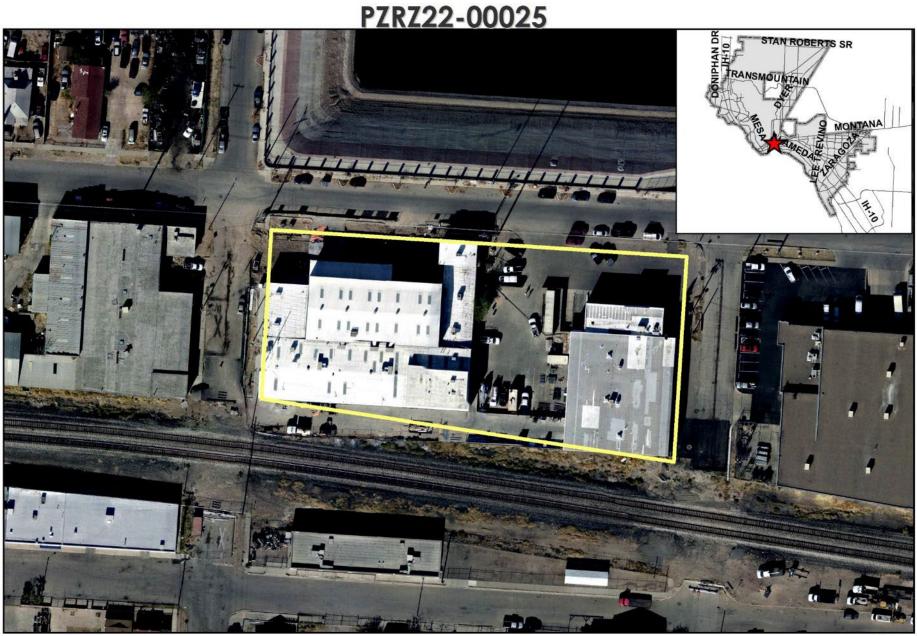


## 3200 and 3230 Durazno Avenue Rezoning

PZRZ22-00025







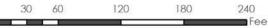


## Aerial

This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & inspections Department Planning Division makes no claim to its accuracy or completeness.

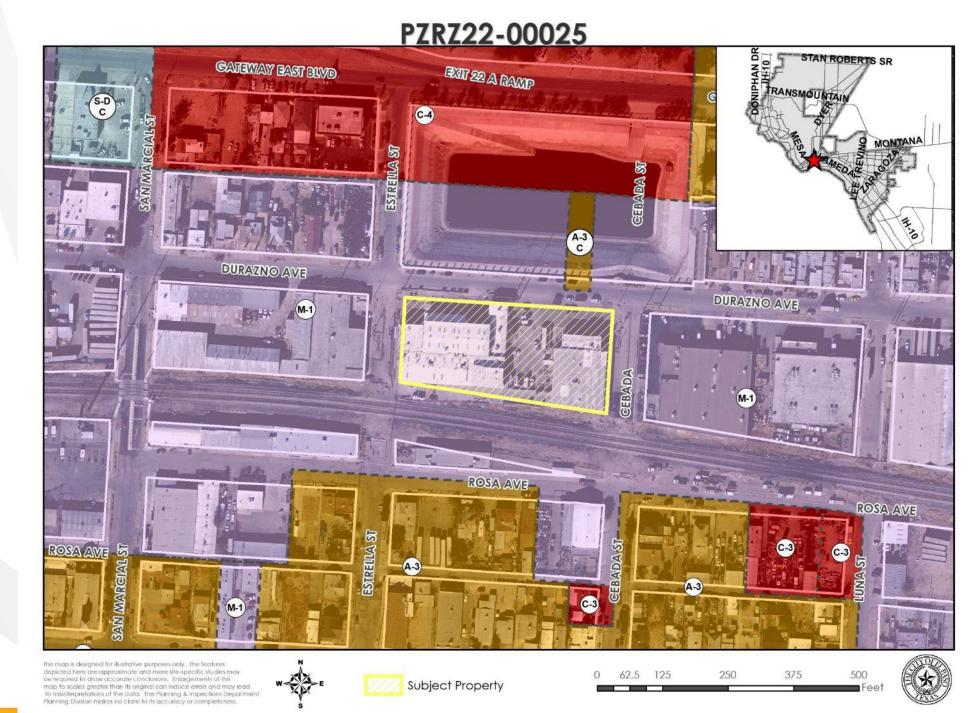


Subject Property











## Existing Zoning







### **Future Land** Use Map



depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



e front and rear: Ten (10) feet, 3200 Durozno Ave. and 8'-8" 3230 Durozno Ave. pr: Zero (0) feet t:Zero (0) feet e Side Setbacks: Zero (0) feet

Building Height: uctures: 30'-0" structures:26'-0' proposed density for each residential land use type expressed in dwelling units per gross aare of ole land: N/A proposed intensity for each non-residential land use type expressed in floor area ratio (FAR): ial: 20,000 sq.ft. - .50 FAR 00 sq.ft. - . 16 FAR 5000 sq.ft. - .61 FAR

tilized by the tacility use

raiking calculation Occupancy: F2/B

Brewery (5.06) 21,987 SF/864 SF GFA = 25 Parking spaces required Office, Business (4.09) 3,878 SF/576 SF GFA = 7 Parking spaces required Total Parking Required: 32 parking spaces required 3 bicycle spaces required and provided

Total Parking Provided: 41 parking spaces required + 23 on-street parking = 64 total Landscape

Existing Landscape area provided: 2,486 sq.ft. (not required for this project under 18.46)

Durazno Ave.

raiking calculation

Office Warehouse (2.13) Office 2,100 SF/ 400 SF GFA = 5 Parking spaces required Warehouse 11,200 SF / 5,000 SF GFA = 2 Parking spaces required 3 bicycle spaces required and provided

Total Parking Required: 7 parking spaces required

Parking for 3200 Durazno is provided at 3230 Durazno Shared Parking Agreement PSHP21-00001

#### Landscape

Existing Landscape area provided: 420 sq.ft. (not required for this project under 18.46)



Legend - Site Pla

Factory (Brewery) 21.987 cc.ft.

Building Us



#### 30'-0" Drive width 30'-0" Drive width Existing Foxy 5 1 ZERO FRONT SETRACK TERO ERONIT CETR Wrought from Gate 35"-6" Wrought Gate Loading Court Loading Cour -Bicycle space UP -> Existing ramp 2,100 sq.ft. 3,878 sq.ft. 10'-0" DeadBeach Existing Power Pole strella **Brewery** 41 Parking Spaces 100'-0" Cebada St. 3200 Durazno Ave. DeadBeach Lot = .81 Acres ( 35,600 sq.ft.) Building = .59 Acres (25,865 sq.ft./72%) Brewery Carl String Build Wall pack ight Existing Utility anchors Headquarters 3230 Durazno Ave. Existing Powe Pale Lot = .90 Acres ( 39,390 sq.ft.) Building = .30 Acres (13,300 sq.ft./34%) 21,987 sq.ft. UP ----- Existing Concrete 10'-0" REAR SETBACK N85°03'48"W 200.74' sisting dock are Existing Light Pole Existing dock area 4'-0' above finish floor 11.200 sa.ft. - Basting Chainlink Fonce New For approval - Goord nation with Southern Racific Railroan Existing Portion of dock area Not for approval - Coordination with Southern Pacific Rallroad N85°03'48"W 200.74 8'-8" REAR SETBACK S-S Sidewalk alor provided if re Existing Chainlink Fence Not for approval - Coordinatio with Southern Pacific Bailmad Property line Southern Pacific Railroad







### Elevations



West Elevation (N. Estrella St.) - 3200 Durazno Ave. N.T.S.



Building Height: 30'-0" +/- highest point





Fence and Gate Height: 8'-0" and 13'-0" +/- highest point

Building Height: 30'-0" +/- highest point





## Subject Property



## Surrounding Development





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## Public Input

- Notices were mailed to property owners within 300 feet on August, 25, 2022.
- The Planning Division has not received any communications in support nor opposition to the request.





## Recommendation

- Staff recommends approval of the rezoning request
- City Plan Commission unanimously recommends approval (5-0) of the rezoning request



## Mission

Deliver exceptional services to support a high quality of life and place for our community

## Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government

## ☆ Values

Integrity, Respect, Excellence, Accountability, People





#### Dead Beach Brewery Mix-Use Table Minimum Maximum Uses Front Side Rear Setback Setback Setback Buildina Area Height 0 Ft. 10'-0" and Office, Warehouse 576 sq. ft. O Ft. 30 Ft. 8'-8" 7,200 sq.ft. 10'-0" and 30 Ft. Warehouse O Ft. O Ft. 8'- 8" 30 Ft. Storage of supplies, 7,200 sq. ft. O Ft. O Ft. 10'-0" and equipment, goods 8'-8" O Ft. 10'-0" and 30 Ft. Office, Business 576 sq. ft. O Ft. 8'- 8" Office, Professional O Ft. O Ft. 10'-0" and 30 Ft. 576 sq. ft. 8'-8" Office. 576 sq. ft. O Ft. O Ft. 10'-0" and 30 Ft. Administrative/Manager's 8'- 8" Beverage product 960 sq. ft. O Ft. O Ft. 10'-0" and 30 Ft. manufacturing 8'- 8" 864 sq. ft. O Ft. 0 Ft. 10'-0" and 30 Ft. Brewery 8'-8" 10'-0" and 30 Ft. Night club, bar, cocktail O Ft. O Ft. 144 sq. ft. 8'-8" lounge, tavern Other retail establishments 360 sq. ft. O Ft. O Ft. 10'-0" and 30 Ft. 8'-8" (high-volume) Other retail establishments 360 sq. ft. O Ft. 10'-0" and 30 Ft. O Ft. (low-volume) 8'-8" 2,700 sq. ft. 10'-0" and 30 Ft. Other wholesale O Ft. 0 Ft. establishment (high-volume) 8'- 8" 2,700 sq. ft. 30 Ft. Other wholesale O Ft. O Ft. 10'-0" and establishment (low-volume) 8'- 8" Restaurant (drive-in or walk-144 sq. ft. O Ft. O Ft. 10'-0" and 30 Ft. 8'-8" up) Restaurant (sit down) 10'-0" and 30 Ft. 144 sq. ft. O Ft. O Ft. 8'-8" Specialty shop 10'-0" and 30 Ft. 360 sq. ft. O Ft. O Ft. 8'-8"

### Permitted Uses





Legislation Text

### File #: 22-1516, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

### **District 8**

Economic and International Development, Karina Brasgalla, (915) 212-1570 Economic and International Development, Elizabeth Triggs, (915) 212-0094

### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Discussion and action on a Resolution that the City Manager be authorized to sign an amendment to a Chapter 380 Economic Development Program Agreement ("Agreement") by and between the CITY OF EL PASO, TEXAS and 1 TEXAS TOWER, LLC and HOTEL DULCINEA, LLC to support and facilitate the development of a hotel, which includes the redevelopment, rehabilitation and improvement of the downtown building commonly known as the Texas Tower, located at 109 North Oregon Street, El Paso, Texas 79901. The amendment requires the Applicant to make a minimum investment of \$20 million.

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Karina Brasgalla (915) 212-1570

Karina Brasgalla (915) 212-1570 Elizabeth Triggs (915) 212-0094

DISTRICT(S) AFFECTED: District 8

STRATEGIC GOAL: Goal 1: Create an Environment Conducive to Strong Sustainable Economic Development

SUBGOAL: Goal 1.1 Stabilize and Expand El Paso's Tax Base

### SUBJECT:

Discussion and action on a resolution that the City Manager be authorized to sign an amendment to a Chapter 380 Economic Development Program Agreement ("Agreement") by and between the **CITY OF ELPASO**, **TEXAS** and **1 TEXAS TOWER**, **LLC** and **HOTEL DULCINEA**, **LLC** to support and facilitate the development of a hotel, which includes the redevelopment, rehabilitation and improvement of the downtown building commonly known as the Texas Tower, located at **109 North Oregon Street**, **El Paso**, **Texas 79901**. The amendment requires the Applicant to make a minimum investment of \$20 million.

### **BACKGROUND / DISCUSSION:**

This amendment will reflect a \$2 million increase in the minimum investment and an upgrade of the hotel brand. The incentive package has been increased proportional to the additional investment. This City Chapter 380 Agreement facilitates the redevelopment, rehabilitation and improvement of the downtown building commonly known as the Texas Tower, located at 109 North Oregon Street, El Paso, Texas 79901. Through the Agreement, the building will be rehabilitated to accommodate at least a 3-star Canopy by Hilton, 120-room hotel, adding to the City's inventory of downtown hotel rooms and increasing the City's ability to attract conventions to its nearby Convention Center. Attracting conventions is an economic development strategy that increases visitor spending within our region.

Texas Tower is a 15-story, historic building listed on the National Register of Historic Places. Redevelopment of the property will be accomplished in a manner that preserves the façade of the building. Historic preservation and rehabilitation are central to our Downtown revitalization strategy. This is the seventh historic renovation project located in Downtown El Paso and incentivized by City Council over the last ten years. Together, these historic renovations represent a nearly \$225 million investment in the urban core of our City; and the addition of 720 guest rooms.

Through this Agreement, the Applicant will invest a minimum of \$20 million into the project. Upon project completion and Agreement metrics being met, the City will provide local performance based incentives in the form of: (1) a 13-year, 100 percent property tax rebate on the City's portion of incremental revenue generated by the project; (2) a 10-year, 25 percent Hotel Occupancy Tax rebate on the City's portion of the tax; (3) a 10-year, 100 percent rebate on the City's portion (1%) of the Sales and Use Tax for sales generated at the hotel; and (4) a one-time, 100 percent rebate on the City's portion (1%) of the Sales and Use Tax generated on construction materials used in the redevelopment of the property.

In addition, the City will apply for participation in the State Convention Center Hotel Program established by Chapter 351 of the Texas Tax Code. If accepted into the program, the City will rebate to the Applicant 100 percent of the State's portion of Hotel Occupancy Tax and Sales and Use Tax revenue generated by the Hotel. This is the fourth downtown hotel project where the City is leveraging local dollars with State dollars to increase local guest room inventory.

### PRIOR COUNCIL ACTION:

On May 24, 2022 City Council approved the original Chapter 380 Agreement.

### AMOUNT AND SOURCE OF FUNDING:

Performance-based incentive built on new revenue generated by the Project.

### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? <u>X</u> YES <u>NO</u>

**PRIMARY DEPARTMENT:** Economic and International Development **SECONDARY DEPARTMENT:** N/A

### 

**DEPARTMENT HEAD:** 

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

### RESOLUTION

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

That the City Manager be authorized to sign an Amendment to the Chapter 380 Economic Development Program Agreement ("Agreement") by and between the CITY OF EL PASO, **TEXAS** and **1 TEXAS TOWER, LLC** and **HOTEL DULCINEA, LLC** to support and facilitate the development of a hotel, which includes the redevelopment, rehabilitation and improvement of the downtown building commonly known as the Texas Tower, located at **109 North Oregon Street, El Paso, Texas 79901**. The Amendment will require the Applicant increase the minimum investment amount to \$20 million.

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO

Oscar Leeser Mayor

ATTEST:

Laura D. Prine City Clerk

**APPROVED AS TO FORM:** 

Juan S. Gonzalez

Senior Assistant City Attorney

APPROVED AS TO CONTENT

Elizabeth K. Triggs, Director Economic & International Development

# THE STATE OF TEXAS )AMENDMENT)TO CHAPTER 380COUNTY OF EL PASO )ECONOMIC DEVELOPMENT AGREEMENT

This Amendment to that certain Chapter 380 Economic Development Agreement for the redevelopment of the property at 109 North Oregon Street is made this \_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_\_\_\_, by and between the City of El Paso, a Municipal Corporation organized and existing under the laws of the State of Texas (the "*City*"), and 1 TEXAS TOWER, LLC ("Texas Tower") and HOTEL DULCINEA, LLC ("Hotel Dulcinea"), collectively "Applicants" and each individually an "Applicant", both Texas limited liability companies.

**WHEREAS**, on May 24, 2022, the City and Applicants entered into a Chapter 380 Economic Development Agreement for the redevelopment of the property at 109 North Oregon Street ("Agreement");

**WHEREAS,** the Agreement may be amended under the provisions of Section 8. A. Amendments. of the Agreement;

WHEREAS, the parties desire to amend the Agreement to better reflect the specific parameters surrounding Applicants' redevelopment, rehabilitation and improvement to the downtown building commonly known as the Texas Tower, located at 109 North Oregon Street, El Paso, Texas 79901.

**NOW THEREFORE**, in consideration of the mutual promises set forth in this Amendment and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1. Specific subsections of **SECTION 1. DEFINITIONS** of the Agreement are amended to read as follows:
  - **H.** Construction Materials Sales Tax Rebate means a one-time 100 percent rebate of the City's one percent (1%) Sales and Use Tax Receipts for materials and labor of taxable items used in the construction of the Development, provided, however, that under no circumstances shall the total rebate amount granted by the City exceed the amount specified in Section 4(A) of this Agreement.
  - **S. Hotel Franchise** means a franchise for at least a 3-star Canopy By Hilton Hotel.
  - **T.** Local Hotel Occupancy Tax Rebate means a 25 percent rebate of the City's portion of the hotel occupancy tax collected in connection with the Hotel for 10 years, provided, however, that under no circumstances shall the total rebate amount granted by the City exceed the amount specified in Section 4(A) of this Agreement. Receipt of the rebate on the City's

portion of the hotel occupancy tax by Applicants is not contingent on the Development's participation in the State Convention Center Hotel Program.

- U. Minimum Appraisal Value means upon the issuance of the certificate of occupancy (temporary or permanent) for the Hotel, or December 31, 2026, whichever occurs first, the value of the real and personal property and improvements of the Development after the construction of the Development below which the Applicant cannot protest nor contest the appraised value of the Development with the El Paso Central Appraisal District during the Term of this Agreement. Under no circumstances shall the Minimum Appraisal Value be interpreted to be equivalent or determinative for appraisal purposes or be used in any way to determine market value. For the purposes of this Agreement, the Minimum Appraisal Value shall be \$5,455,100.00.
- V. **Minimum Investment** means all Qualified Expenditures, including, without limitation, those costs incurred, self-performed or contracted to third parties by the Applicant over the course of the redevelopment, rehabilitation, and improvement of the Development. For the purposes of this Agreement, the Minimum Investment amount shall be \$20,000,000.00.
- W. **Property Tax Rebate** means a 100 percent rebate of the City's portion of the combined incremental ad valorem real and personal property tax revenue generated by or for the Real Property above the Base Year Value for the Development. This rebate shall be limited to a 13-year period within the Grant Period provided, however, that under no circumstances shall the total rebate amount granted by the City exceed the amount specified in Section 4(A) of this Agreement. Receipt of the Property Tax Rebate is not contingent on the Development's participation in the State Convention Center Hotel Program.
- Z. Retail Sales and Use Tax Rebate means a rebate of 100 percent of the City's one percent Sales Tax Receipts generated by and attributable solely to the Applicants and the Applicant's Retailers, tenant's and/or occupants' sales of Taxable Items consummated at the Hotel in the immediately prior calendar year and remitted from the State Comptroller to the City. For purposes of this Agreement, sales and use tax revenue generated in areas of the building not included in the Development as defined in Section 1(J) of this Agreement shall not be eligible for Retail Sales and Use Tax Rebate under the terms of this Agreement. This rebate shall be limited to a 10-year period within the Grant Period provided, however, that under no circumstances shall the total rebate amount granted by the City exceed the amount specified in Section 4(A) of this Agreement. Receipt of the Retail Sales and Use Tax Rebate is not

contingent on the Development's participation in the State Convention Center Hotel Program. To receive the Sales and Use Tax Rebate, the Applicant must complete and submit Exhibit D and provide as an annual attachment to the Grant Submittal Package.

### 2. Specific subsections of SECTION 2. TERM AND GRANT PERIOD of the Agreement are amended to read as follows:

- A. Term and Effective Date. The Term of this Agreement shall commence on the Effective Date and shall terminate on the first to occur: (i) the date when the Grant is fully paid; (ii) 18 years from the Effective Date; (iii) the proper termination of this Agreement in accordance with applicable provisions contained herein; or (iv) termination by mutual consent of the parties in writing; provided, however, that failure of Applicant to receive its certificate(s) of occupancy (either temporary or permanent) no later than December 31, 2026, shall result in the immediate termination of this Agreement. For the purposes of this Agreement, "certificate(s) of occupancy" does not include temporary certificate(s) of occupancy.
- **B. Grant Period and Grant Payment Eligibility.** The Grant Period shall begin when the Applicant submits to the City the initial State and City Grant Submittal Packages to be no later than January 1, 2027, with early submission being acceptable. Subsequent submittals will be due by April 1 for the previous calendar year. Applicant's eligibility for Grant payments shall be limited to 13 consecutive years for the Property Tax Rebate; and 10 consecutive years for the Local Hotel Occupancy Tax Rebate, Retail Sales and Use Tax Rebate, State Hotel Occupancy Tax Rebate, and State Hotel Sales Tax Rebate, within the Term of this Agreement and subject to the provisions and tenets contained in this Agreement. The City shall annually review the Applicant's eligibility for Grant Period.

### **3.** Subsection A. of **SECTION 3. OBLIGATIONS OF THE APPLICANT** of the Agreement is amended to read as follows:

- A. **Development.** Applicant agrees to develop and construct, at its sole cost, the Development; and further agrees:
  - 1) That it shall make or cause to be made the Minimum Investment in the development and construction of the Development;
  - That the Development shall preserve the exterior façade of the building in a manner consistent with the renderings attached hereto in Exhibit A;
  - 3) That the Development signage shall comply with the hardware and illumination types specified in Chapter 21.80.020 of the City municipal code.

- 4) That the Development shall be completed in accordance with the requirements and review provisions of Chapter 20.20 of the City municipal code, where applicable;
- 5) That it shall diligently and faithfully in a good and workmanlike manner pursue the completion of the Development and that the construction of same will be in accordance with all applicable federal, state and local laws and regulations; and moreover, shall give preference and priority to local manufacturers, suppliers, contractors and labor, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operating efficiency;
- 6) That it shall develop and construct, at its sole cost an approximately 120 room at least 3-star Canopy by Hilton Hotel, as further conceptually shown on **Exhibit A**, attached hereto;
- That it shall make a Minimum Investment in an amount of \$20,000,000.00 towards the Development, no later than December 31, 2026;
- 8) That it shall obtain a certificate of occupancy for the Development no later than four (4) years from the Effective Date of this Agreement.; and
- 9) That the Development shall be limited in its use to uses consistent with the development and operation of the Hotel and consistent with the City's development goals, which is the encouraging of development and redevelopment of Downtown El Paso.

### 4. The 1<sup>st</sup> full sentence of Subsection D. of SECTION 3. OBLIGATIONS OF THE APPLICANT of the Agreement is amended to read as follows:

On or before January 1, 2027 and continuing on a quarterly basis of each year thereafter, but not to exceed 10 consecutive years, Applicants will provide to the City, and maintain during the Term of this Agreement, a list of each Retailer that occupies or occupied the Development during the Grant Period, including the taxpayer identification number, taxpayer outlet number (as shown on the Texas sales tax permit), taxpayer name and taxpayer location as reported to the State Comptroller, and any other information required by the State Comptroller to generate and provide the City with the State Comptroller's sales tax report for the Grant Period, provided however, Applicants shall not be required to provide any such information or reporting to the City or any other party for any occupants at the Development that are not part of any incentives (for example the restaurant used by Café Central).

- 5. Subsection E.2. of SECTION 3. OBLIGATIONS OF THE APPLICANT of the Agreement is amended to read as follows:
  - 2. Concurrent with the submittal of the initial City Grant Submittal Package, Applicant will submit to the City documentation as may be reasonably necessary to verify: (i) the expenditure of the Minimum Investment; (ii) receipt of a final certificate(s) of occupancy for the Development that allows the Applicant to fully occupy and the public to fully access the Development, receipt of which shall have been received no later than December 31, 2026; (iii) reasonable documentation confirming the rebate amount due to the Applicant for the Construction Materials Sales Tax Rebate; and (iv) reasonable documentation confirming the rebate amount due to the Applicant for the Local Hotel Occupancy Tax Rebate, Property Tax Rebate, Sales and Use Tax Rebate. Any subsequent City Grant Submittal Packages shall require that the Applicant submit City documentation as may be reasonably necessary to verify the rebate amount due to the Applicant for the: (i) Local Hotel Occupancy Tax Rebate (if applicable); Property Tax Rebate; and Sales and Use Tax Rebate (if any), provided however, the City shall be required to request in writing any such documentation reasonably necessary to verify the rebate amount due to the Applicant from Applicant within 90 days after Applicant has submitted the City Grant Submittal Package or no additional documentation shall be required to be submitted by Applicant, and shall be deemed acceptable.

### 6. Subsection A. of SECTION 4. OBLIGATIONS OF THE CITY of the Agreement is amended to read as follows:

- 1. The City agrees to provide a one-time Construction Materials Rebate provided Applicants' performance, Applicants' request for payment, and the payment provided by the City are in accordance with the terms and provisions of this Agreement, and due with the initial City Grant Submittal Package;
- 2. The City agrees to provide the Local Hotel Occupancy Tax Rebate provided Applicants' performance, Applicants' request for payment, and the payment provided by the City are in accordance with the terms and provisions of this Agreement;
- 3. The City agrees to provide the Property Tax Rebate provided Applicants' performance, Applicants' request for payment, and the payment provided by the City are in accordance with the terms and provisions of this Agreement;

- 4. The City agrees to provide the Retail Sales and Use Tax Rebate provided Applicants' performance, Applicants' request for payment, and the payment provided by the City are in accordance with the terms and provisions of this Agreement; and
- 5. In no event shall the maximum, aggregate amount of City Grant Payments exceed 12.7% of the Total Investment.
- 6. Except as expressly provided herein, the City agrees to process and pay to Applicant any eligible Grant payment within 90 days receipt of the Applicant's complete annual City Grant Submittal Package.
- 7. Subsection C.6. of SECTION 4. OBLIGATIONS OF THE CITY of the Agreement is revised from "6." To "4."; reflecting the next number in sequence.
- 8. Exhibit A is replaced in its entirety by Attachment A to this Amendment;
- **9.** Exhibit C-2 **City Grant Submittal Package** is replaced in its entirety by Attachment B to this Amendment;
- **10.** All terms and conditions of the Agreement and all subsequent Amendments thereto, except as herein revised, shall remain in full force and effect.

**IN WITNESS WHEREOF,** the parties have hereunto set their hands this \_\_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_.

<u>CITY</u> THE CITY OF EL PASO:

Tomás Gonzalez City Manger

**APPROVED AS TO FORM:** 

S. Gonzalez

Senior Assistant City Attorney

**APPROVED AS TO CONTENT:** 

Elizabeth Triggs Director, Economic & International Development

### <u>APPLICANT(S)</u> 1 TEXAS TOWER, LLC, a Texas Limited Liability Company

MASE SCHERR [NAME] admarzed 1 KAS WATER [SIGNATORY CAPACITY]

And

HOTEL DULCINE a Texas Limited Liability Company CHSAR NAME] salotice gutto aized re [SIGNATORY CAPACITY]

### ATTACHMENT "A"

### Replacement of Exhibit A Project Renderings & Description of Amenities

### [ATTACHED]

### N. OREGON ST., EL PASO, TX

# **CANOPY by HILTON - A BUILDING CONVERSION PROJECT**

3RD AND 4TH FLOOR PLAN

SCALE: 1/8" = 1'-0"





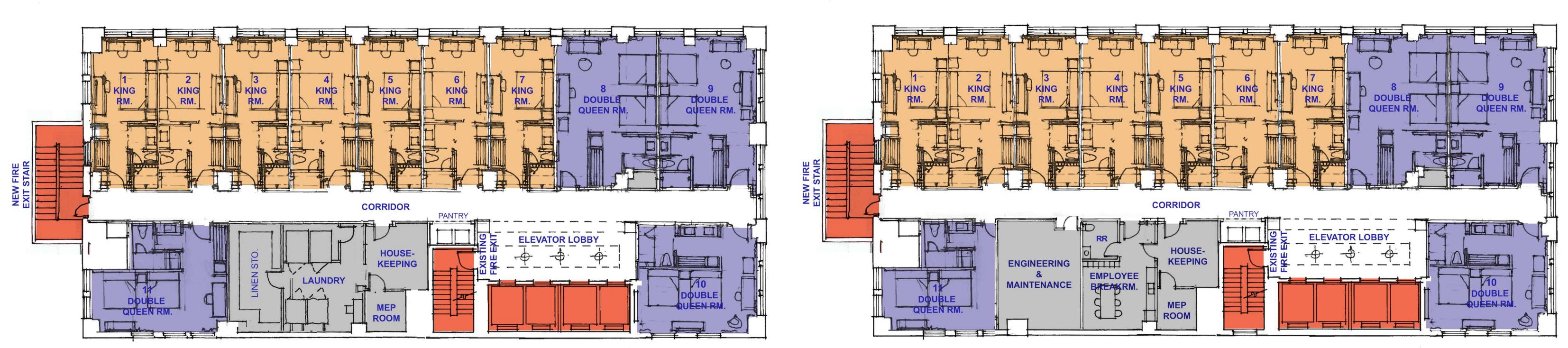
ARCHITECTURE • PLANNING • INTERIORS 3221A WEST ALABAMA • HOUSTON, TEXAS 77098 Office 713-522-1054 • Fax 713-522-4496 • info@mcshouston.com ARCHITECTS LLC

### **5TH FLOOR PLAN**

SCALE: 1/8" = 1'-0"

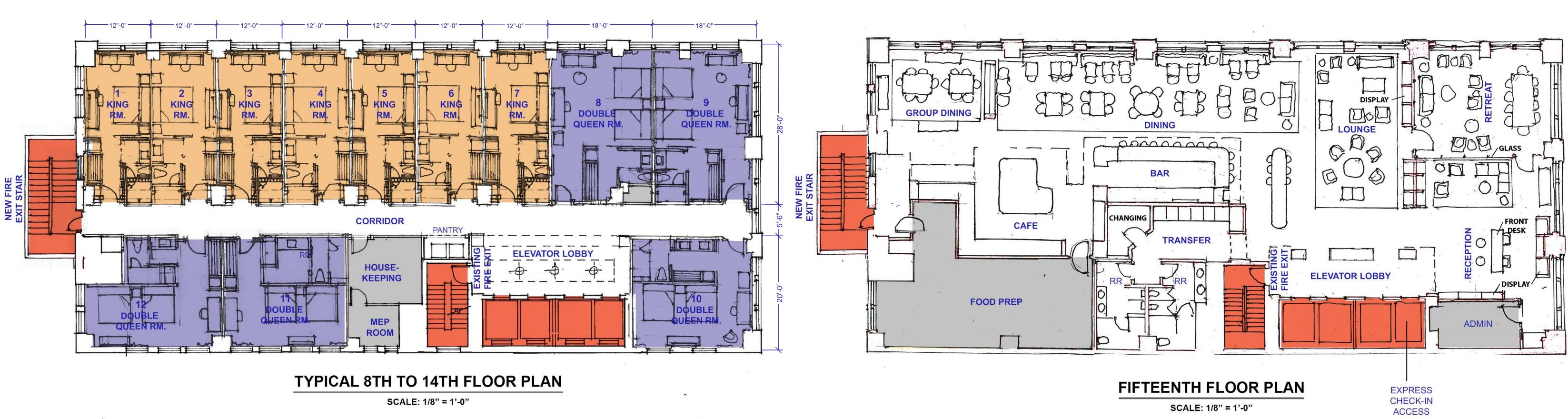


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SCALE: 1/8" = 1'-0"



# **CANOPY by HILTON - A BUILDING CONVERSION PROJECT**

N. OREGON ST., EL PASO, TX

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### **7TH FLOOR PLAN** SCALE: 1/8" = 1'-0"

CHITECTURE • PLANNING • INTERIORS A WEST ALABAMA • HOUSTON, TEXAS 77098 713-522-1054 • Fax 713-522-4496 • info@mcshouston.com ARCHITECTS LLC



2022 07 26

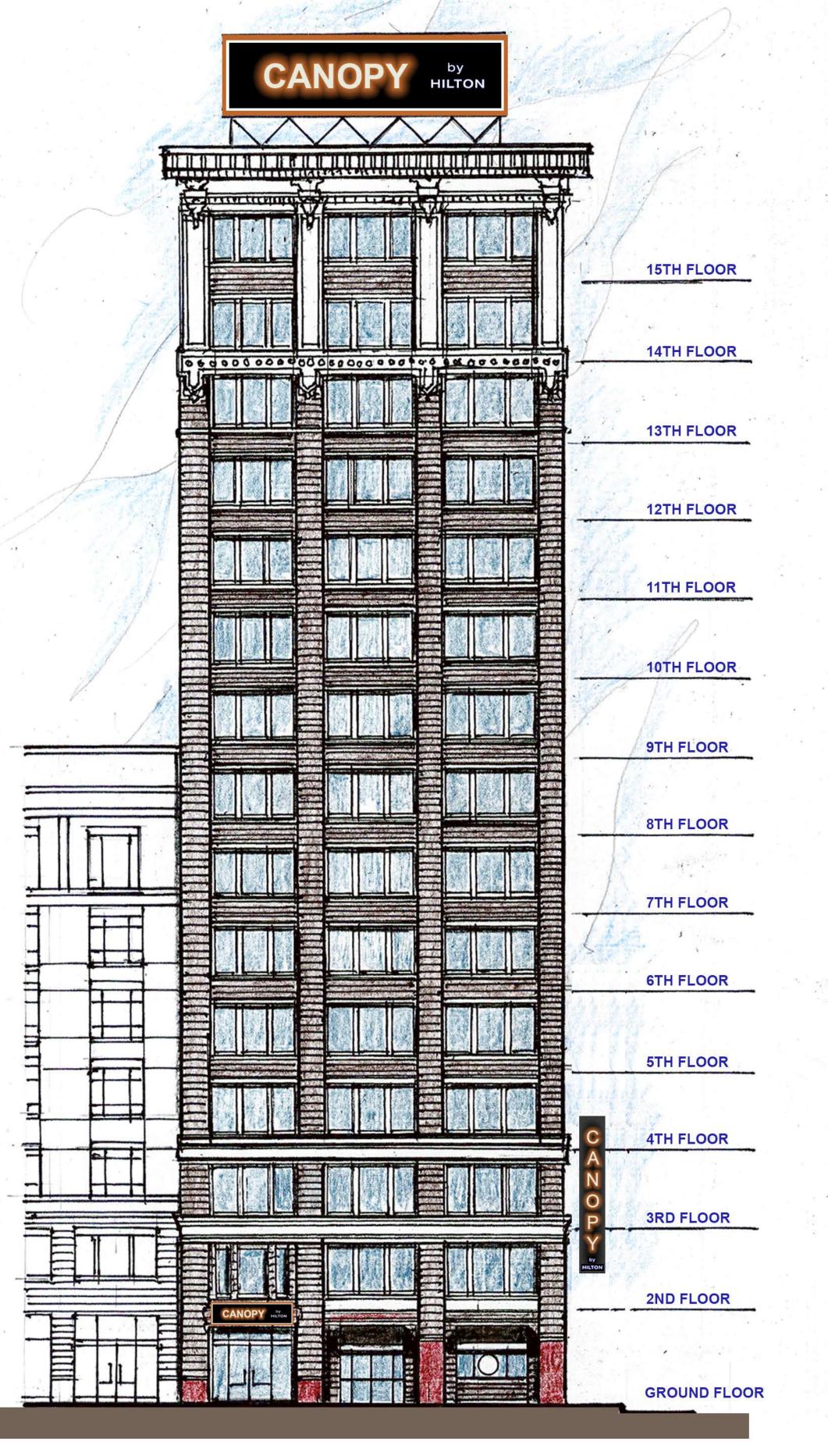
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Ground Floor	
2nd Floor	
3rd Floor	
4th Floor	
5th Floor	
6th Floor	
7th Floor	
8th Floor	
9th Floor	
10th Floor	
11th Floor	с
12th Floor	
13th Floor	
14th Floor	
Subtotal per Type	
TOTAL NO. OF ROOMS	
P	

## **CANOPY by HILTON - A BUILDING CONVERSION PROJECT**

N. OREGON ST., EL PASO, TX

EL ROOM COUNT				
	Double	_		
King	Queen	Total		
7	4	11		
7	4	11		
7	4	11		
7	3	10		
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91	58	149		
	149			

×.



### FACADE ALONG N. OREGON ST.

SCALE: 3/32" = 1'-0"

ARCHITECTURE • PLANNING • INTERIORS 3221A WEST ALABAMA • HOUSTON, TEXAS 77098 Office 713-522-1054 • Fax 713-522-4496 • info@mcshouston.com ARCHITECTS LLC



2022 07 26

### ATTACHMENT "B"

Replacement of Exhibit C-2 City Grant Submittal Package

### [ATTACHED]

#### EXHIBIT C-2 City Grant Submittal Package

\_\_\_\_\_(The Applicant) believes that it has substantially met its obligations under the Chapter 380 Agreement executed on \_\_\_\_\_\_(date). Pursuant to the Agreement, the Applicant submits this Grant Submittal Package Form in compliance with said Agreement and in anticipation of receiving the Grant in consideration for his obligations met under the Agreement.

As required by the Agreement, the following information is submitted.

- 1. [INITIAL GRANT SUBMITTAL ONLY] Copies of all applicable approvals and permits.
- 2. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation to evidence minimum expenditures amounting to **\$20,000,000** including but not limited to
  - a. Stamped **PAID** invoices
  - b. Copies of checks proving payment corresponding to paid invoices
  - c. Receipts for purchase of construction materials (must show amount of taxes paid)
  - d. Bank statements (in the event a transaction was paid with a credit or debit card)
  - e. Contractor pay applications, notarized with lien releases
- 3. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation evidencing the materials and labor of Taxable Items used in the construction of the Development eligible for rebate to Applicant under the Construction Materials Sales Tax Rebate.
- 4. **[INITIAL GRANT SUBMITTAL ONLY]** Copy of Certificate of Occupancy in accordance with the requirements provided in Section 3(A)(7).
- 5. Documentation evidencing payment of Local Hotel Occupancy Tax for \_\_\_\_\_ (Quarter & Year, or Year only if paid annually).
- 6. Property tax payment receipts showing proof of payment for tax year \_\_\_\_\_.
- 7. Retailers Report Listing of retailers located at the development
- 8. Waiver of Sales Tax Confidentiality Forms (**EXHIBIT D**) from Retailers on the Retailers Report who have provided such waivers (with Duty to Update)

It is understood by the Applicant that the City of El Paso has up to **90 days** to process this request and reserves the right to deny the Grant claim if the Applicant has failed to comply with the terms of the Agreement.

By the signature of the Applicant below, the Applicant hereby certifies that: (1) the copies of the receipts attached to this Grant Submittal Package Form represent Qualified Expenditures incurred in construction to the Development; (2) the Applicant has paid or caused to be paid the City's local sales and use taxes associated with the Qualified Expenditures; and (3) that the copies of the receipts and copies of the permits attached herein are true and correct.

<b>APPLICANT:</b>		

Name: \_\_\_\_\_

Title:

#### ACKNOWLEDGMENT

STATE OF TEXAS	§
	§
COUNTY OF EL PASO	§

	This instrument was acknowledged before me on the data	ay of, 20
by	, as	
of	(APPLICANT / COMP.	ANY).

Notary Public, State of Texas

My Commission Expires:



Item 38

# 1 Texas Tower Redevelopment

First Amendment to Chapter 380 Agreement

Goal 1. Cultivate an environment conducive to strong, sustainable economic development



### 1 Texas Tower: Requested Council Action

Discussion and action on a resolution **amending the Chapter 380 Agreement** between the City of EI Paso and 1 Texas Tower, LLC and Hotel Dulcinea, LLC to support and facilitate the **development of a hotel**, including the redevelopment, **rehabilitation** and improvement of the **downtown building** commonly known as **1 Texas Tower**, located at **109 N. Oregon**.

- First amendment to Agreement approved in May 2022
- Increase capital investment by \$2 million (to \$20 million)
- Upgrade hotel flag to Canopy by Hilton
- Increase rebate on Hotel Occupancy Tax by an amount proportionate to increase in investment
- Extend construction and agreement term deadlines



<sup>\*</sup>Image Source: CommercialEdge



### 1 Texas Tower: Existing Project Summary

### Subject Property: 109 N. Oregon

- Renovation and conversion of a minimum 120-room hotel
- Retail and restaurant space on ground floor, including Café Central
- Minimum \$18 million investment
- Chapter 380 Agreement approved May 2022, securing
- Leverages state tax revenue generated by the project through the State Convention Center Hotel Program
- Secures 1,200+ rooms needed for convention attraction
- Preserves the façade of a property listed on the National Register of Historic Places
- City performance-based incentive capped at \$2.186 million or 12.1 percent of total minimum investment



FACADE ALONG N. OREGON ST.



## Proposed Amendment: Upgrade to Canopy by Hilton

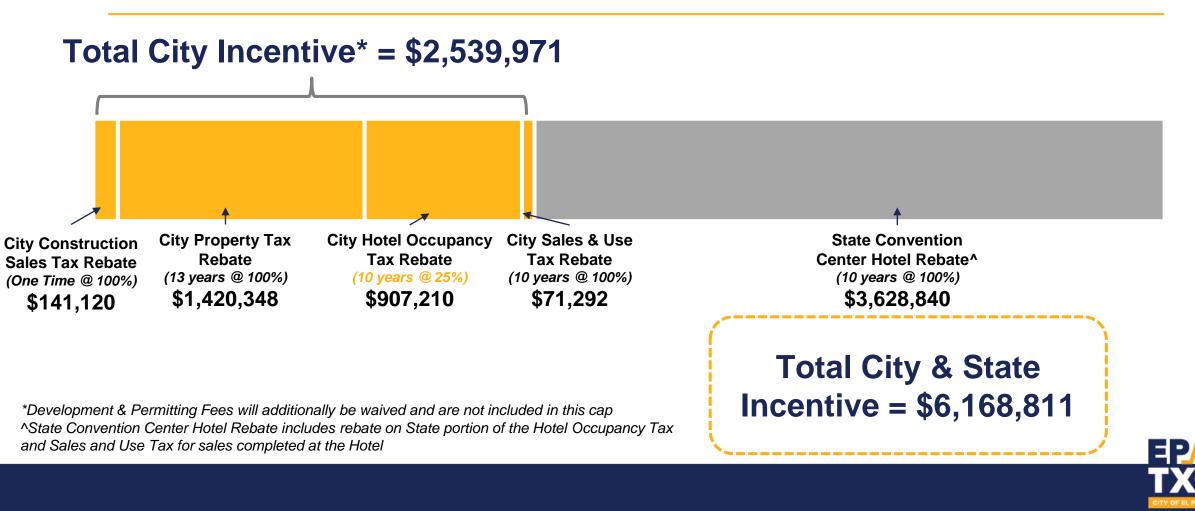
- Upgrade hotel flag to Canopy by Hilton
  - Urban boutique hotel brand
  - 25 locations in the U.S. 4 in Texas
- Increase minimum investment by \$2 million, from \$18 to \$20 million
- Extend construction deadlines and agreement term by 12 months
- Increase City Hotel Occupancy Tax rebate proportionate to the increase in investment
  - From 20 to 25 percent rebate on City's 7 percent HOT over 10-year period
- Cap total City incentive at 12.7 percent of total investment





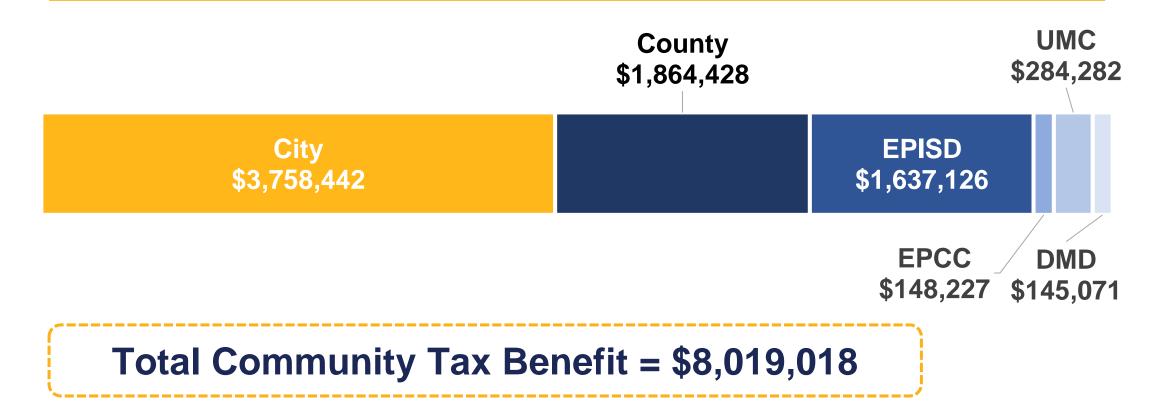


### Proposed Incentive : Estimated City and State Incentive Summary on \$20 million Investment



656

### **Community Tax Benefit :** New Revenue Over 10-Years





# Recommendation

- Staff recommends approval of the proposed amendment to secure:
  - A boutique Canopy by Hilton hotel, representing a minimum \$20 million investment
  - The 1,200+ rooms needed for convention attraction
  - Preservation of the façade of a property listed on the National Register of Historic Places
  - Completion of construction by end of 2026



FACADE ALONG N. OREGON ST.





### **Mission**

Deliver exceptional services to support a high quality of life and place for our community

### Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government

### ☆ Values

Integrity, Respect, Excellence, Accountability, People



Legislation Text

### File #: 22-1515, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

#### **District 8**

Economic and International Development, Bill Allen, (915) 212-1619 Economic and International Development, Elizabeth Triggs, (915) 212-1619

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Discussion and action on a Resolution of the City Council of the City of El Paso nominating El Paso Healthcare System, Ltd. (Las Palmas Medical Center) as a Texas State Enterprise Zone Project. If designated, El Paso Healthcare System, Ltd will invest over \$6 million to update the primary surgery unit, cardiology department, and nursing department at its Las Palmas Medical Center facility located at 1801 North Oregon St., El Paso, Texas 79902; and retain 503 full-time positions and create an additional 10 fulltime positions at that location over the term of the project's designation.

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: N/A

#### CONTACT PERSON(S) NAME AND PHONE NUMBER: Bill Allen, 915-212-1619

Bill Allen,915-212-1619 Elizabeth Triggs, 915-212 - 0094

#### DISTRICT(S) AFFECTED: 8

**STRATEGIC GOAL:** Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBGOAL: 1.1 Stabilize and expand El Paso's tax base

#### SUBJECT:

Discussion and action on a resolution of the City Council of the City of El Paso nominating El Paso Healthcare System, Ltd.(Las Palmas Medical Center) as a Texas State Enterprise Zone Project. If designated, El Paso Healthcare System, Ltd will invest over \$6 million to update the primary surgery unit, cardiology department, and nursing department at its Las Palmas Medical Center facility located at 1801 North Oregon St., El Paso, Texas 79902; and retain 503 full-time positions and create an additional 10 fulltime positions at that location over the term of the project's designation.

#### **BACKGROUND / DISCUSSION:**

The Texas Enterprise Zone Program is a State funded economic development tool that allows the City of El Paso to collaborate with the State of Texas to encourage job creation and retention and capital investment in economically distressed areas of the state. Through the program, Texas communities may nominate companies in their jurisdiction to receive Enterprise Zone designation, a designation that allows qualifying projects to collect state sales and use tax refunds or rebates on qualified expenditures made by the company. The City of El Paso is nominating El Paso Healthcare System, Ltd. for its expansion of the Las Palmas Medical Center facility located at 1801 N. Oregon St., El Paso, Texas, 79902 as an Enterprise Zone Project to the Office of the Governor Economic Development and Tourism. Once nominated by the City of El Paso and designated by the State, the business is eligible to apply for state sales and use tax refunds on qualified expenditures provided that they satisfy capital investment and job creation and retention metrics. Las Palmas Medical Center currently employs 501 full-time positions as defined by the Texas Enterprise Zone Act and commits to retaining those positions during the term of its designation, and will additionally add 10 full time positions and invest more than \$6 million to update its existing facility.

#### **PRIOR COUNCIL ACTION:**

August 30, 2022 – Phelps Dodge Refining Corp., TEZ Designation May 24, 2022 – El Paso Healthcare Systems, LTD – Del Sol Medical Center, TEZ Designation August 30, 2021 – Charter Communications, Inc. TEZ Designation August 20, 2019 – Western Refining Company, L.P. TEZ Designation

#### AMOUNT AND SOURCE OF FUNDING:

Texas Enterprise Zone designation enables business to receive only state sales and use tax refunds – there is no impact to local tax revenue.

#### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_X\_YES \_\_\_NO

**PRIMARY DEPARTMENT:** Economic and International Development

Revised 04/09/2021

**DEPARTMENT HEAD:** 

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

#### A RESOLUTION NOMINATING EL PASO HEALTHCARE SYSTEM, LTD. AS A TEXAS STATE ENTERPRISE ZONE PROJECT

WHEREAS, the City Council of the City of El Paso ("City") has previously passed Ordinance No. 017116 on May 26, 2009, electing to participate in the Texas Enterprise Zone Program; and

**WHEREAS,** the local incentives offered under this Resolution are the same on this date as were outlined in Ordinance No. 017116; and

**WHEREAS,** pursuant to Chapter 2303, Subchapter F of the Texas Enterprise Zone Act, Texas Government Code ("Act"), El Paso Healthcare System, Ltd. (Las Palmas Medical Center) has applied to the City for designation as an enterprise zone project; and

WHEREAS, the Office of the Governor Economic Development and Tourism ("EDC") through the Economic Development Bank ("Bank") will consider El Paso Healthcare System, Ltd. (Las Palmas Medical Center) as an enterprise project pursuant to a nomination and an application made by the City; and

WHEREAS, the City desires to pursue the creation of the proper economic and social environment in order to induce the investment of private resources in productive business enterprises located in the city and to provide employment to residents of enterprise zones and to other economically disadvantaged individuals; and

**WHEREAS**, the City finds that El Paso Healthcare System, Ltd., (Las Palmas Medical Center) meets the criteria for designation as an enterprise project under Chapter 2303, Subchapter F of the Act on the following grounds:

- 1. El Paso Healthcare System, Ltd., (Las Palmas Medical Center) is a "qualified business" under Section 2303.402 of the Act since it will be engaged in the active conduct of a trade or business at a qualified business site located inside an enterprise zone and at least twenty-five percent (25%) of the business' new employees will be residents of an enterprise zone, economically disadvantaged individuals, or veterans; and
- 2. There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities within the area; and
- 3. The designation of El Paso Healthcare System, Ltd., (Las Palmas Medical Center) as an enterprise project will contribute significantly to the achievement of the plans of the City for development and revitalization of the area.

**WHEREAS,** the City finds that El Paso Healthcare System, Ltd., (Las Palmas Medical Center) meets the criteria for tax relief and other incentives adopted by the City and nominates El Paso Healthcare System, Ltd. (Las Palmas Medical Center) for enterprise project status on the

1

grounds that it will be located at the qualified business site, will create a higher level of employment, economic activity and stability; and

WHEREAS, the City finds that it is in the best interest of the City to nominate El Paso Healthcare System, Ltd., (Las Palmas Medical Center) as an enterprise project pursuant to the Act.

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

- 1. That El Paso Healthcare System, Ltd., (Las Palmas Medical Center) is a "qualified business" as defined in Section 2303.402 of the Act, and El Paso Healthcare System, Ltd. (Las Palmas Medical Center) meets the criteria for designation as an enterprise project, as set forth in Section 2303, Subchapter F of the Act;
- 2. That the enterprise zone project shall take effect on the date of designation of the enterprise project by the agency and terminate five years after date of designation; and
- 3. That the City Manager or his designee be authorized to sign any and all documents required by EDC to complete the nomination process.

PASSED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**ATTEST:** 

THE CITY OF EL PASO:

Laura Prine City Clerk

**APPROVED AS TO FORM:** 

Juan S. Gonzalez

Senior Assistant City Attorney

Oscar Leeser Mayor

### **APPROVED AS TO CONTENT:**

Elizabeth Triggs, Director Economic & International Development

2



Item 39

Texas Enterprise Zone Project Nomination: Investment in the Las Palmas Medical Center by El Paso Healthcare System, Ltd.







### **Requested Council Action**

Approve a resolution nominating **El Paso Healthcare System Ltd.** and its investment in the Las Palmas Medical Center located at 1801 N. Oregon for designation as a **Texas Enterprise Zone Project**.

- Company will invest a minimum of **\$6,600,000** in the facility
- Retain 503 full-time jobs over the 5 year designation period
- Add 10 full-time jobs over the 5 year designation period
- No impact to City funds; program involves state sales and use tax rebates



# About the Texas Enterprise Zone Program

- Economic development tool designed to encourage private investment and job creation in economically distressed areas of the state
- Texas communities must nominate companies in their jurisdiction to participate
- Designated businesses receive state tax incentives under this program in the form of state sales and use tax rebates on qualified expenditures
- Eligibility requirements:
  - Average weekly wage must **meet or exceed** the county average weekly wage
  - Employment and investment commitment must be met prior to expiration of designation period
  - Jobs must be maintained through the end of the designation period, or for at least 3 years after the date on which tax benefits are received, whichever is later
  - **25% of the company's new employees** must be economically disadvantaged, have an enterprise zone residency, or be veterans (when located inside an Enterprise Zone)





### Project Overview: El Paso Healthcare System Ltd., Las Palmas Medical Center

- Located at 1801 N. Oregon St. (District 8)
  - 327 bed acute care facility located inside an Enterprise Zone
- Employs 503 full-time positions at the Las Palmas Medical Center facility
  - Staffing levels will be maintained and 10 new jobs will be added over the designation period or the three years after the tax benefit is received, whichever is later
- Estimated investment of \$6,600,000
  - Cardiology Department \$3,750,000
  - Nursing Department \$1,725,000
  - Surgery Unit \$1,125,000





### Previous Nominations in this Biennium

- Charter Communications August 2021
- El Paso Healthcare Systems, Ltd. (Del Sol Medical Center) May 2022
- Phelps Dodge Refinery August 2022

6 possible nominations remain over the next 8 months





## Recommendation

# El Paso Healthcare System Ltd. (Las Palmas Medical Center) meets the criteria for designation as a State Enterprise Zone Project

- Company will invest a minimum of \$6,600,000
- Retain over 500 jobs and add 10 jobs over the 5-year period, at a minimum
- 25% of any new hires will be residents of an enterprise zone, economically disadvantaged, or veterans

### Recommend approval of the nomination

- No impact to City funds; program involves only state sales and use tax rebates
- Leverage a state program to assist with a significant local investment
- Generate incremental tax revenue



# **Mission**

Deliver exceptional services to support a high quality of life and place for our community



Integrity, Respect, Excellence, Accountability, People

# Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government





Legislation Text

### File #: 22-1518, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

District 7

Economic and International Development, Karina Brasgalla, (915) 212-1570 Capital Improvement, Yvette Hernandez, (915) 212-1860

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Discussion and action requesting City Council support for the staff recommended project selected to submit for the FY 2022 Federal Railroad Administration (FRA) Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grant Program.

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

AGENDA DATE: November 22, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Karina Brasgalla, (915) 212-1570 Yvette Hernandez, (915) 212-1860

DISTRICT(S) AFFECTED: District 7

**STRATEGIC GOAL:** Goal 1 - Create an Environment Conducive to Strong, Sustainable Economic Development.

#### SUBJECT:

Discussion and action requesting City Council support for the staff recommended project selected to submit for the FY 2022 Federal Railroad Administration (FRA) Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grant Program.

#### **BACKGROUND / DISCUSSION:**

The proposed application to the FY 2022 Federal Railroad Administration (FRA) Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grant Program will request funding for the construction of the Zaragoza Road Overpass/Grade Separation Project over the Union Pacific railroad (UPRR) tracks from Billy the Kid Street to Roseway Dr.

If awarded, this funding would facilitate the final design and construction of a grade separation on Zaragoza Road from Billy the Kid Street to Roseway Dr. Ultimately, the project will improve safety, promote greater travel time reliability, improve traffic flow, reduce traffic congestion, lower emissions associated with idling vehicles, improve response times for emergency vehicles, and promote economic development and local business growth opportunities.

Funds for the FY 2022 FRA CRISI Program are to be awarded on a competitive discretionary basis for projects that improve the safety, efficiency, and reliability of intercity passenger and freight rail, to include highway-rail grade crossing improvement projects.

#### PRIOR COUNCIL ACTION:

N/A

#### AMOUNT AND SOURCE OF FUNDING:

The required minimum 20 percent local match is estimated at \$5 million.

**DEPARTMENT HEAD:** 

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

### Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grant Program

November 22, 2022



674

# **CRISI Grant**



- Invest in a wide range of projects within the United States to improve railroad safety, efficiency, and reliability
- \$1.5 Billion Grant Funds
  - Rural Area Set-Aside at least \$376M will be made available for projects in rural areas
  - Trespassing Measures Set-Aside—At least \$25M will be made available for the development and implementation of measures to prevent trespassing and reduce associated injuries and fatalities
- Applications must be submitted by December 1, 2022
- CRISI grant program may not exceed 80% of the project cost





# **Selection Criteria**

- Safety ability to foster a safe transportation system for the movement of goods and people, consistent with the Department's strategic goal to reduce transportation-related fatalities and serious injuries across the transportation system
- Equitable Economic Strength and Improving Core Assets ability to contribute to economic progress stemming from infrastructure investment and associated job creation in the industry. Ability to promote the efficiency and resilience of supply chains by increasing freight rail capacity, reducing congestions, alleviating bottlenecks, and increasing multimodal connections.
- Equity and Barriers to Opportunity ability to address equity and barriers to opportunity, to the extent possible within the program and consistent with law.
- Climate Change and Sustainability ability to reduce the harmful effects of climate change and anticipate necessary improvements to prepare for extreme weather events.
- Transformation ability to expand and improve the nation's rail network, which needs to balance new infrastructure for increased capacity with proper maintenance of aging assets.



# Project Outline



- Summary summary of the proposed project and what the project will entail
- Funding detailed project budget, documentation of funding commitments, non-Federal, CRISI, other federal if available
- Description additional background on the challenges the project aims to address; the expected outcomes; the expected users and beneficiaries of the project, including all railroad operators; the specific components and elements of the project
- Location geographical description, urbanized area
- Selection Criteria outlined in previous slide 3
- Implementation and Management proposed project implementation and project management arrangements
- Planning Readiness systems planning and project planning processes that analyzed the investment needs and service objectives, and led to the clear definition of the Capital Project
- Design Readiness demonstrate the maturity of project design including completion of PE and any other necessary preliminary design
- Environmental Readiness indicate the date of completion, and provide a website link or other reference to the documents demonstrating compliance with NEPA
- DOT Strategic Goals describe efforts to consider climate change and sustainability impacts, as well as efforts to improve equity and reduce barriers to opportunity in project planning





# Proposed CRISI Project Application



# Zaragoza Road Overpass/Grade Separation Project

 Grade separation on Zaragoza Road from Billy the Kid Street to Roseway Drive ultimately, improving safety, promote greater travel time reliability, improve traffic flow, reduce traffic congestion, lower emissions associated with idling vehicles, improve response times for emergency vehicles and promote economic development and opportunity.



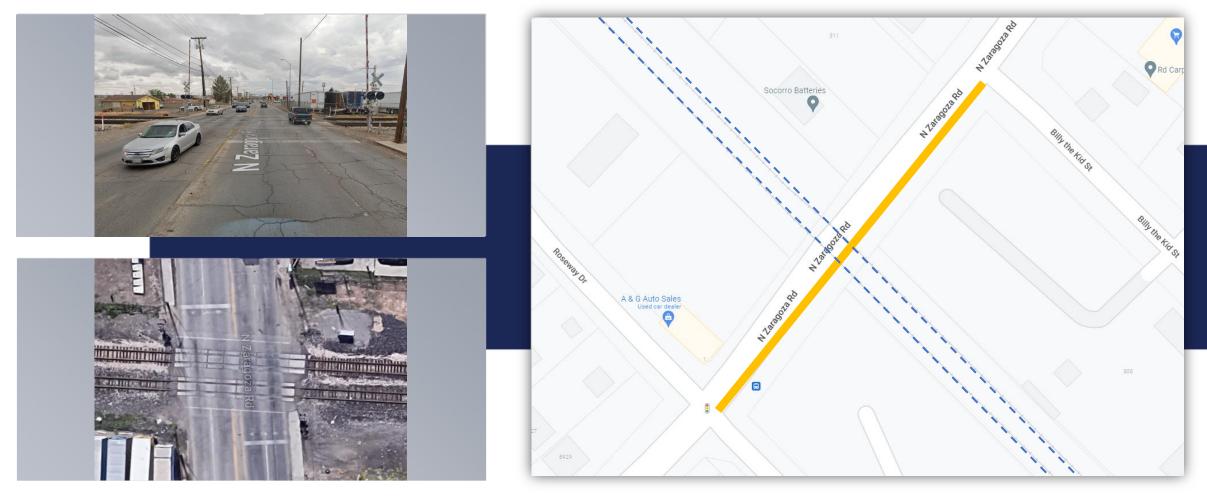


# Zaragoza Road Overpass/Grade Separation Project Timeline

- NEPA and PE work completion end of 2024
- Final design completion end of 2025
- Construction begin 2027 with 2yr construction period
- Project opening in 2029









### Mission

Deliver exceptional services to support a high quality of life and place for our community

### Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government

### ☆ Values

Integrity, Respect, Excellence, Accountability, People





Brindar servicios excepcionales para respaldar una vida y un lugar de alta calidad para nuestra comunidad

### 🖻 Visión

Desarrollar una economía regional vibrante, vecindarios seguros y hermosos y oportunidades recreativas, culturales y educativas excepcionales impulsadas por un gobierno de alto desempeño

### ☆ Valores

Integridad, Respeto, Excelencia, Responsabilidad, Personas



Legislation Text

File #: 22-1510, Version: 1

### CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

### DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below. No Title's, No emails. Please use ARIAL 10 Font.

All Districts City Attorney's Office, Donald Davie, (915) 212-0033

#### AGENDA LANGUAGE:

*This is the language that will be posted to the agenda. Please use ARIAL 11 Font.* 

Discussion and action on the application of Texas Gas Service Company, A Division of ONE Gas Inc., to Increase Gas Utility Rates within the City of El Paso.

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

AGENDA DATE: November 22, 2022 PUBLIC HEARING DATE: November 22, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Donald C. Davie, Assistant City Attorney, (915) 212-0033 and Ian Voglewede, Strategic Partnership Officer, (915) 212-0094.

**DISTRICT(S) AFFECTED:** All Districts

**STRATEGIC GOAL:** Goal 6 – Set the Standard for Sound Governance & Fiscal Management

### SUBGOAL:

### SUBJECT:

Discussion and Action on the application of Texas Gas Service Company, A Division of ONE Gas Inc., to Increase Gas Utility Rates within the City of El Paso.

### **BACKGROUND / DISCUSSION:**

City Council will decide, under its original jurisdiction, at the Public Hearing whether to approve or deny the Statement of Intent of Texas Gas Service Company, a Division of ONE Gas, Inc., to Change Gas Utility Rates Within the Unincorporated Area of the West Texas Service Area, the North Texas Service Area, the North Texas Service Area, and the Borger Skellytown Service Area.

### **PRIOR COUNCIL ACTION:**

Yes. City Council last made this decision in July of 2016.

### AMOUNT AND SOURCE OF FUNDING:

N/A

### HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

**PRIMARY DEPARTMENT:** City Attorney's Office SECONDARY DEPARTMENT: City Manager - Strategic Partnerships Officer

CITY ATTORNEY: \_\_\_\_\_\_\_ DATE: 11/15/22



# Texas Gas Service Statement of Intent to Change Gas Utility Rates

Matter No. 22-1008-189 PUC Docket No. 52195 November 22, 2022 Assistant City Attorney, Donald Davie Space reserved for the ASL interpreter







# TGS Proposals: Big Picture

Space reserved for the ASL interpreter

- **1. TGS Requested Rate Increase**
- 2. Consolidation
- **3. Cost Allocation**





## TGS Requested Rate Increase Do not move, m

	Overall Impact to Revenue	Rate of Return on Equity / Capital Structure	Depreciation Expense	Admin & General Expense	
TGS Filed Request	\$13 Million	10.25%	\$3.6 Million	\$4 Million	
City Position	(\$300) Thousand decrease	9.35%	\$540 Thousand	\$6 Million	
<b>RRC Staff Position</b>	\$9.8 Million	9.54%	N/A	N/A	





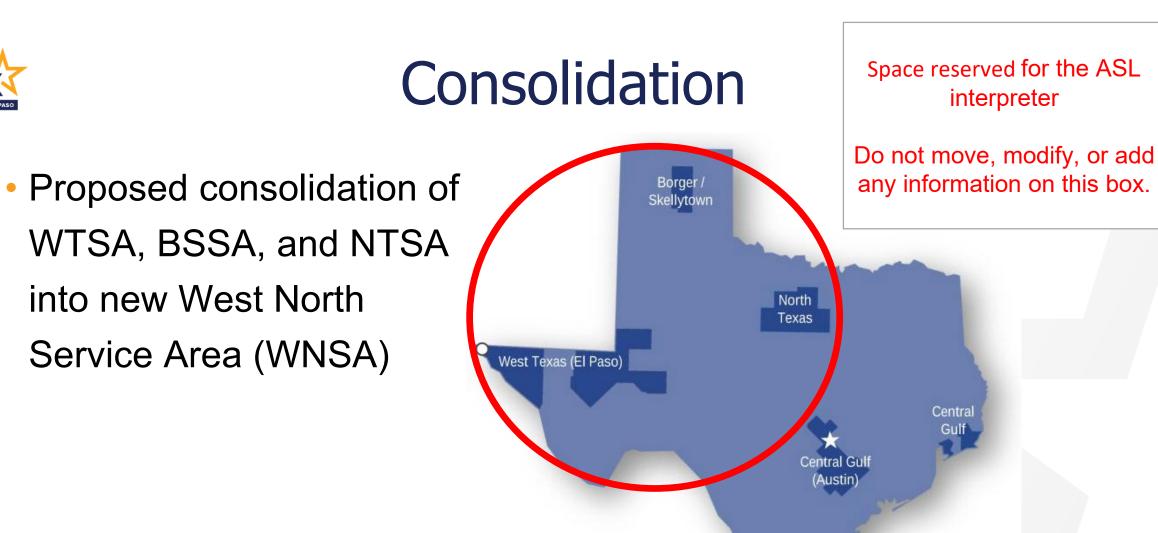
## **TGS Requested Rate Design**

Customer Charge | Customer Charge Large Residential Small Residential TGS \$35 \$20 City \$17-\$20 \$17-\$20 \$30 **RRC Staff** \$17

Space reserved for the ASL interpreter







Grande Valley





Space reserved for the ASL interpreter

# Cost Allocation by Service Area

Do not move, modify, or add any information on this box.

## • \$7 million impact to El Paso in Consolidation

Service Area	Stand Alone Revenue Deficiency	<b>Consolidated</b> <b>Revenue Deficiency</b>	Difference
WTSA	\$11,059,453	\$18,088,833	<u>\$7,029,380</u>
BSSA	\$565,417	\$415,451	(\$149,966)
NTSA	\$1,353,488	(\$5,324,580)	(\$6,678,068)
Total	\$12,978,358	\$13,179,704	\$201,346



## Cost Allocation & Average Bill Impact Consolidation WTSA

Space reserved for the ASL interpreter

Customer Class	Allocation	Average Bill Increase
Overall Increase	\$18,088,833	
Residential	\$16,194,974	\$4.39
Commercial	\$1,942,949	\$10.46
Industrial	(\$130,939)	(\$12.74)



## Next Steps

Space reserved for the ASL interpreter

Do not move, modify, or add any information on this box.

### Nov 22, 2022

- City Council Meeting
- Discussion & Action on TGS Rate Increase

## Nov 28<sup>th</sup> , 2022

Deadline for City to take Action

### Dec 22, 2022

 Proposal for Decision Issued by ALJ

### January 24, 2023

 RRC Scheduled Open Meeting

# January 27, 2023RRC deadline to rule



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Questions?



## Space reserved for the ASL interpreter

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Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government

VISION

## MISSION

Deliver exceptional services to support a high quality of life and place for our community



Integrity, Respect, Excellence, Accountability, People